

July 2022

Vol 1 Ed 3

South T Bar Ranch Chat

Letter from your POA Board

Welcome to our third edition of the STB Chat. This is meant to be a quick update to our ranch community, board discussions, and a community post. In this edition there are several more serious matters to discuss and it is our hope that it is helpful information.

These include the:

- ⇒ Board of Directors Secret Ballot VOTE
- ⇒ From the Board
- ⇒ LEC vs CCIOA & understanding the issue
- ⇒ Annual Meeting Recap

BOARD of DIRECTORS VOTE:

As mentioned at the Annual Meeting held on June 25, 2022, the election of new Directors to the Board will be conducted by secret ballot vote due to the Annual Meeting including a Zoom option. This provided no legal way to do a secret ballot during the meeting. The Board of Directors, upon receiving legal counsel, determined the need to conduct the Board election using a mail-in ballot. For clarity, to comply with CCIOA, the secret ballot vote is needed due to the Colorado Revised Statute; C.R.S. 38-33.3-310(b)(1)(A) that requires votes for contested positions on the board be taken by secret ballot (more candidates than positions available creates a contested vote). Until wording in our Protective Covenants reflects definitively that we are a Limited Expense Community (LEC), the CCIOA rules must be followed.

PLEASE VOTE AND MAIL YOUR BALLOT AS SOON AS POSSIBLE TO BE RECEIVED BY THE DEADLINE OF JULY 25TH TO BE COUNTED.

CURRENT POA BOARD OF DIRECTORS

President Lynnette Mote.....board@southtbar.com
Vice President.....Robin Pedzinski.....RanchSTB@outlook.com

Committee at Large Members:

Joyce Omohundro.....joyce19532002@yahoo.com
Doug Peterson.....mxpetersons@gmail.com
Ralph Spencer.....dee82263@gmail.com

Expiring Terms:

Secretary.....Becky Renck.....secretary@southtbar.com
Treasurer.....Betty Sue Cornella.....treasurer@southtbar.com
Gayle Battaglini.....gaylemarieb@gmail.com
Margaret Scott.....rwmascott@msn.com
Brian Miller.....brian@bprintproduction.com

Gate Codes

OWNER CODE FOR
Oct 2021 –September
2022

9441

Construction CODE
8405

Realtors email

secretary@southtbar.com

For a temporary code.

EXTREME FIRE DANGER

Please be diligent about FIRES, outdoor cooking and SMOKING in our forests!!

The South T Bar area had over 100 days this Spring of dry winds and LOW precipitation, and even though we have received rain the past several weeks, the dry trees and growing grasses will compound the fire issues later in the summer.

Wildfires are a huge concern—especially to those who live at the ranch full time.

Remember that **felony charges and HIGH fines** are now imposed on anyone found to have been the cause of a Wildland fire.

Land Owners **BE RESPONSIBLE** when visiting your property!!

FROM YOUR POA BOARD:

Role of the POA Board of Directors: We would like to take this opportunity to explain the Role of the Board of Directors and to acknowledge those that served this past year. (paraphrased from STB Bylaws Article III)

The Bylaws define the Role of the Board of Directors (voted on by the membership) and, in a nutshell, the Board manages the business and affairs of the POA by carrying out the governing and operation of the Property. By enforcement of Covenants and making rules (policies & procedures) as necessary for the operation, the Board administers the day to day operations of the Ranch. The Board creates a Budget for operations and collects annual assessments including delinquent payments and enters into contracts necessary for the operation, maintenance, and repair of the areas for which the POA is responsible.

The Board this past year has been exceptional in their efforts & time spent on not only regular Board Operations but also 1- the additional work sessions on the updating of the Governing Documents and 2- the due diligence done to address the legal dispute brought against the POA (see additional information below).

LEC vs CCIOA: There has long been an issue on the Ranch of whether it should be governed as a Limited Expense Community (LEC) or under the Colorado Common Interest Ownership Act (CCIOA). The Original Covenants and Bylaws are unclear in the language and seem to state the intent to be an Limited Expense Community (LEC). But some of the wording binds us to legally being subject to the entire Colorado Common Interest Ownership Act (CCIOA) rules & regulations. The Board presented the question to our Attorney to explain the difference in the two (LEC & CCIOA). See the explanation and the reply to the member vote made in 2010 that our community did.

Explain differences of LEC vs CCIOA. *"A limited expense community is a community which, at inception has assessments which are no more than \$400 and which assessments cannot, under any circumstances, be increased more than the consumer price index for the year. The Association (STB) is not a limited expense community as the Declaration clearly states that the Association has the right to increase assessments the greater of the CPI or 12%. Because the Association has the ability to increase assessments above and beyond the CPI and maximum in the statute it is not a limited expense community."*

A vote was made in 2010 to roughly 50/50 split on whether we want governed as a LEC or CCIOA. *"This is not permissible. The Association is either a LEC or not, based on how the Declarant originally set up the community. The vote made in 2010 was in effect an opinion vote"*

As presented, the DRAFTED Covenants have been amended by 1- removing the wording **or 12%** but 2- kept the ability to increase the assessment by only the CPI. (The 12% was the sticking point to falling under the CCIOA rules). If passed as written this piece would definitively allow the Association to take advantage of the Limited Expense Community designation. In addition, (our Attorney) still recommends the Association have both a collection policy and enforcement policy which provide guidance as to how the Association collects fines and deals with delinquent assessments even though not required of a LEC. This is already a Policy & Procedure of the POA.

There have been many questions over the past several months directed to the STB Board of Directors that we would like to respond to here. Your Board has diligently tried to protect the whole of the POA interests in the legal disputes, budgeting and document updates. They (We) have been as open and direct as possible to any and all questions, comments, input and responses made. To further clarify now some of the issues that have been brought to the Board over the past year or so, here are responses to some of the more pertinent questions. We hope that this will help resolve any controversy and attacks directed at the Board that serve very little purpose except to divide this community.

- ⇒ POA Documents are, by law, available to any POA owner upon request from the current Board of Directors. The exception to this is when restricted due to attorney / client privilege and board discussions in executive (closed) meetings encompassing legal discussions.
- ⇒ The revision of the Governing Documents i.e. the Declaration of Protective Covenants and the Bylaws, have been slated for updating and revision for most of the Ranch's history. Many Boards have debated as to whether the task should be undertaken. Due to the almost 50% turnover in membership this year it was decided the time was appropriate.
- ⇒ Bylaws have been revised several times over the years. In 2007/2008 two pertinent changes were:
 - The requirement for Board members to be STB Owners was expanded to include STB residents or non-STB owners who pay dues to the STB POA.
 - Each nominee must receive at least 50% of the votes (of those represented in person or by proxy at the annual meeting) in order to win election to the Board. (Article III, Section 3).
- ⇒ Legal expenses in 2022 included a dispute involving owners of 3 adjacent Fremont parcels. In the dispute, the Board received checks that did not include the road use fee increase and an email referencing a letter from their attorney. This letter, dated almost a year prior, stated that the 3 Fremont parcels in question were not subject to the road assessment increase, and referenced the Fremont 600 Annexation Agreement. After due diligence by the Board looking at Annexation Agreements, Ranch Easements and then upon our legal counsel's review of the documents, it was determined any increase of assessments made by the POA would apply to the Fremont parcels also. It was also determined (by our legal counsel) the POA had no legal responsibility to maintain or provide snow removal on Parcel 95 that is Valley Vista Trail and in fact it would be a breach of the Board's fiduciary responsibility to continue any maintenance of such. (Historically, in 2002 there was an email request to Land Properties (the Developer) to provide snow removal when the original owners needed access for their construction company building the house. There was no POA Board decision recorded to continue that maintenance after construction which has been done continuously since that time.)
- ⇒ Valley Vista Trail is not on the original filed plat map of the South T Bar Ranch Roads and is only to be used for access to Fremont 160 and Soaring Eagle W & E. Maps that have over the years been distributed to owners erroneously included VVT as a South T Bar POA road.
- ⇒ The last response letter sent from the POA attorney was dated May 17, 2022 and was in response to a threat of legal action if the POA did not 1- agree to pay \$6000 to the adjacent owners in question for their legal costs and 2- to immediately retract the decision to cease maintenance on the Parcel 95 private easement. The POA Board refused to pay this amount nor retract the decision of maintenance protecting the interests of the POA.
- ⇒ It has been a concern of many POA members that the same Fremont owners operate a short term vacation rental / AirBnB at their home; That they were provided a personal gate code for those guests to access the ranch for many years, that the extra road use is costing the POA and that there may be liability issues. Per the Fremont 600 Annexation Agreement, it is within their right to operate the short term rental.

- ⇒ The current Covenant & Bylaw review started very clearly with a vision of what the POA members wanted of their Ranch community. It is recommended each POA review & revise Governing Documents at least every 10 years. Legal wording to replace contradictory statements and, in some instances, updated to be current with Colorado and Fremont County laws was a prime concern as was addressing 'new' developments such as the popular sheds.
- ⇒ These revised documents are still in DRAFT stage and have not replaced the Original documents. Any POA member has the opportunity to still review and direct their comments to the Secretary who is compiling these for further discussion.
- ⇒ The 8 year average for Road maintenance & snow removal is approximately \$29,561. out of the Operating Budget with roughly an additional \$20,435. out of the Reserves for Road Base. This brings the average to approximately \$49,996 per year. The POA manages 28 miles of road.
- ⇒ In 2015 the percentage of the average road maintenance to the Operating Income was near 35%. In 2021 it was close to 72%. As of June 2022, we are at 30% with over \$10,000 of road base needed, 6 months of grading and possible snow removal, and culvert repairs to still anticipate.
- ⇒ POA Board of Director meetings are held the Second Saturday of each month beginning at 8:00 AM Mtn time. The calls are held by conference call at 605-468-8015 Access 672521#. All POA members are welcome to call in and attend the meeting. There is always a comments section at the end of the meeting for POA member comments. Topics of discussion can be presented to the Board by contacting the Secretary prior to the meeting.
- ⇒ The "notsouthtbar" website is an unofficial website in our community. The POA Board, obviously, in its role, does not advocate ANY communications that could lead to a divisive community.

ANNUAL MEETING RECAP 2022:

Annual Meeting highlights:

1. South T Bar Annual POA meeting held June 25th. There were 63 parcels represented between 32 in-person, 13 by Zoom call and 18 by proxy. 9 present were non-voting adjacent parcels.
2. Bob Carochi Game Warden with the CO Division of Wildlife gave a very informative presentation.
 - A deer Migration Study presently being done in the area. College age crews from the Fish & Game Dept may be spotted on the ranch to catch and collar young does and fawns.
 - Hunting laws do not state that you cannot shoot from a private road i.e. all South T Bar roads are private BUT make sure of property lines and having permission from the owner is still paramount.
 - If you see someone trespassing or hunting without permission, get a license plate and call the Game Warden. If filing charges a citation will be issued upwards of \$10,000.
 - Licenses in Area 57 & 58 are seeing higher points because of the interest in the area.
 - The Big Horn Sheep & Elk populations are doing well in the area.
 - Everyone needs a Hunting or Fishing License or Wildlife Pass to be on any Wildlife Area or State Trust Land.
 - Contact Information is Game Warden – Bob Carochi
 Email: bob.carochi@state.co.us Phone: (719) 276-8844

ANNUAL MEETING RECAP 2022 Con't

3. In Betty Sue Cornella's absence, Gayle Battaglini gave the Treasurer's report.
 - It was noted that there was an excess of funds in 2021 due to an underbudget of road maintenance (mostly low snow removal). \$6497.36 was moved into the Reserve Fund.
 - Annual Assessments were increased for the first time in 23 years from \$395 to \$440.
 - Trash fees will exceed the budget by \$2500 this year due to an increase and 4th dumpster being utilized.
 - Legal fees have exceeded the 2022 Budgeted \$2000 due to the governing document review and also adjacent parcels disputes.
 - 18 sales of Parcels have occurred since the 2021 annual meeting this brings new ownership to 53 transfers in the past 5 years.
4. Brian Miller gave a report for the Infrastructure Committee explaining
 - The road & maintenance budget is being used at an unsustainable rate over the past 8 years due to fuel and labor costs as well as more traffic on the roads.
 - If each property owner could help by clearing their own ditches of debris and weeds especially around culverts, keep branches trimmed from overhanging roads, it would help with costs. A list of trouble spots can be provided to anyone willing to help.
 - The Trash enclosure was providing a hot spot for the bears last year and was rebuilt with higher walls and rebuilt doors.
 - An item the Board has been investigating and will include as an agenda item for next year is to have cell and or internet access at the gate.
5. Member Comments were asked for on the Declaration of Covenant & Bylaws DRAFTS
 - Curtis Eulert thought a copy of the DRAFTS should have maybe been posted on the website.
 - An alternative amendments page was distributed by Ann Eulert with her comments.
 - Kim Wolfe made a comment that the Annexation agreements of the adjacent property owners only granted limited uses of roads & trash and did not include the ability to serve on the Board and that was only made possible by a Bylaw Amendment in 2008. With no voting rights within the POA should they be allowed to run for and be on the POA Board since they are not subject to our governing documents?
 - A comment was made by Ann Eulert that the POA members had been excluded from participating in the document review and several members stated that they had not received an email asking for comments & input on the review. Other members stated they had received and reviewed all emails and communications from the Board.
 - Several members stated their comments about the document review. All of these will be considered in the next review by the Board including breaking out the required legal revisions from other revisions.
7. New Business included the following:
 - Gary Lack stated that a CAP limit should be included in any budgeted items going over \$2500. Road expenses are often over budget and the legal expenses exceeded the budget by over \$8000 without owner notification.
 - 11 nominations for the 5 open board positions created a need for the election to be done by Secret Ballot. Ballots will be mailed to voting members within 2 weeks.

MAIL YOUR BALLOTS PLEASE!

South T Bar POA Address
PO Box 1431
Canon City, CO 81215