

Minutes of Stagecoach Estates Lot Owners Association special meeting to discuss
Basin Canyon Road widening of August 2018
APPROVED 2-29-2019

Oct. 3, 2018 6 pm

Basin Recreation Trailside Administration meeting room 5715 Trailside Drive, Park City,
Utah

18:02 President Brian Bitner called meeting to order

Secretary Lucy Jordan called roll of Board members. Board members present:
President Brian Bitner, Vice President Jackie Pender, Treasurer Steve Hall, Secretary
Lucy Jordan, Directors: Gary Auerbach, Brent Bryan, Chuck Grosvenor, Nicole Knotts,
Bill Wilson. Board members absent: Director Scott McClellan. About 20 lots were
represented by about 30-35 people. Not all lots signed in on the sign up sheet.

Board members gave a presentation aided by Powerpoint visuals informing the
membership of the timeline of events that lead to this meeting. In the presentation were
supporting documents and the board's reasoning for road widening off Basin Canyon
Road through lots 1 and 37. The presentation presented a plan for moving forward. See
attached Powerpoint slides.

Comment period started at 18:38. Treasurer Steve Hall opened the floor for questions
from lot owners to be limited to 2 minutes each.

1.

Lot 70 Cara Murphy: Contends that the road committee is no longer a standing
committee, but is instead a special committee and therefore does not need the
President to appoint a chair. If the board does appoint a chair, it should be a committee
member that has been attending committee meetings. The August board meeting was
attended by two road committee members and neither was given time to speak.

Minutes from the meeting show that the board did not take a formal vote on widening
Basin Canyon Road. Why was a formal vote not conducted? What constitutes an issue
that would require a formal vote?

What assurances can the board give that this parking lot disaster won't happen next to
her house?

Why did we spend SELOA work day clearing the very same area that would be dumped over two weeks later?

2.

Lot 37 Tim Charlwood: Reported on his 45-minute meeting with Summit Co chief engineer today. Brian Bitner's name is on the violation. Mr. Bitner wants his name off and changed to the board. Board members should be wary of the liability that they will take on if that happens. County is not OK with the work that was done and will not extend the time to remedy past Oct 12. Will cost the HOA \$100,000 to remedy the work.

3.

Lot 118 Dan Ibach: Thanked the board for the work and condition of Kimball Canyon Rd and pointed out that our annual dues are about the same as The Preserve's monthly dues. Has spoken to other HOAs and they believe that the reason Stagecoach can maintain the roads with so little money is due to the contacts that the board has to get low cost or free materials, and that those contacts are valuable. Concerning LDS Church camp traffic only traveling on Basin Canyon Road, he spoke with lot owner Mike Garbett. Garbett says that the church camp traffic only goes on Basin Canyon Rd because North Church Rd is not safe. In the past, the road counters were used to show the LDS Church the amount of traffic they create and they upped their contribution. At the time, the SELOA board sequestered that extra money to be put into only Basin Canyon Road. Ibach passed along for context that Silver Creek HOA gets \$5000 from Red Hawk Ranch HOA for access through Silver Creek. If the International Fire Code has requirements for road width, does it also not have requirements for keeping fire apparatus access open, i.e. winter snow plowing?

4.

Lot 37 Jill Richins: Does the board record audio of meetings? If so, she would like access to the recording.

Does the board vote and follow Roberts Rules of Order and did they at the August meeting?

Why is there a road committee if they are not in on planning of road work?

Does the county require a permit for this type of road work and was one obtained?

Is Brian Bitner a licensed contractor?

How does the board plan to repair and reclaim the road widening?

How does the board plan to prevent this from happening to someone else?

Is the fill good or does it contain the cement blocks that were taken off the other road and placed under the fill on lot 37?

5.

Lot 43 Dan Harris: Appreciates efforts to communicate and have this meeting. Please go through all past emails and answer all questions asked.

Is discussion about fire codes relevant when we only have access six months of the year. Is parking allowed on our roads? If so, you've lost the safety gained by widening.

6.

Lot 50 Fred Trujillo: Thanks for the presentation and for widening for safety. If someone places rocks or other obstructions in the easement, is that a violation of the fire code? We used to have a policy and agreement that some snow would be left on the road for owners to access their lots by snowmobile. Is that still the case? Rocks in the easement are creating a bottleneck.

7.

Lot 2 Elke Touchette: the board needs to get a legal opinion on what the warranty deeds allow with respect to rights of way. We should have another survey of what lot owners desire for Stagecoach so the non-full-time owners are represented. Warranty deeds say there is a 100' right of way on platted property line, and this is recorded with Summit County. To answer Fred's question about the rocks, that road goes straight through her property. Fred approached Elke. Meeting got disorderly with some shouting and calling for member removal. Elke continued about prescriptive easements. Basin Canyon is full of them. No one has a right to widen anything to 100 feet on a prescriptive easement, if that is what it is. The board needs to get very educated on what is allowed on prescriptive easements.

8.

Lot 106 Drew Jordan: Thanked the board. Summit Co infrastructure road standards 11-6-8 state that if roads are not in a Wildland Urban Interface zone, they need to be 24 feet wide and shoulders need to be 2-6 feet wide. If they are in a W.U.I., they need to be 20 feet wide and 13.5 feet high clearance, not 26 as was stated in the board presentation.

9.

Lot 37 Jill Richins again: Our governing documents state members can petition the board for placement of signs. Can the board place no parking signs or barriers on the fill that was placed on their lot until it can be deemed safe?

10.

Lot 34 Michaelle Peters: Why was Lot 34 was not notified? The picture the board showed in the presentation (of area of Kimball Canyon Road that was widened several years ago) showed a slope with grass and it was very tame. The slope that was buried (on Basin Canyon Road) had massive stands of trees covering 80% of the slope. Most widening happened when she was gone and it happened very fast and most of the trees were not cut, and if they were, they were cut too long. They are under the soil and that is against county ordinance. Water will get down through that material and it is not a safe road. Engineering report was done after the fact. Fill material became available so quickly that they cowboied the road without planning approval, engineering, or a permit. This is a violation of the law. So whose responsibility is it? Brian Bitner's? The board's? The home owners'? Now to make the road safe, the road has to come so far out into someone else's property. It affects her property value and she hopes we can fix it.

11.

Lot 43 Dan Ibach again: Website says no parking. Stagecoach is zoned Mountain Remote which means we can live here full time but that it may take longer to get emergency services here. We are not zoned Seasonal Recreation, which means access is only part of the year. So if we are doing a survey of what residents want to see at Stagecoach, let's make sure the correct zoning information is presented. Kimball Road residents have created a working solution in which snow plowing is accomplished by a private plowing co-op paid by year-round residents, which works well.

12.

Lot 50 Fred Trujillo again: Has had his lot surveyed. On his lot the road goes entirely across his property. Knows that and has no problems because his lot is 12 acres. The road has been there for 45 years and it is what it is. When engineering was done back then, they didn't have the tools they do today. Covenants say no snow removal and say nothing about parking. Follow the covenants or don't.

13.

Lot 34 Michaelle Peters again: Replied to Fred T. that our covenants say there is to be no snow plowing but it has been interpreted that that only means SELOA will not perform the plowing, but no covenant can limit the rights of an individual to provide access to their own lot.

14.

Lot 43 Dan Ibach again: Clarification that plowing is happening with HOA dues at the gate area so we are already violating the covenants. It is a budget item that we all vote on.

15.

Lot 70 Cara Murphy again: Thinks the tension over this issue is because the board does not follow the bylaws to a T. They are not taking votes on things that affect us. They are not responding in a timely manner or at all. The purpose of this meeting is not only to fix what was done with the road work, but to assure that this will not happen again. Some people have an inner invitation to the board and get what they request and but the board will not listen to others. She agrees with Dan Ibach that the Kimball road is great and she is glad they do not have to pay a lot of money in dues, but if Brian Bitner would coach us to bring in a new Board so we can get fill and make decision to keep up with road maintenance when he is no longer president, but on the flip side, (his efforts) go to make the roads good (? audio recording hard to understand). There has also been some major damage done because there is not transparency and not a vote taken and not good communication.

16.

Lot 66 Justin Bitner: Recently got approval to build in Stagecoach and was excited to build but this is taking the fun out of it. Suspects that the anger over the road work is about the manner in which it was done. His first impression of road work on Basin Canyon Road was that he was so impressed. At the last board meeting there were impassioned pleas to fix the road and he was impressed that the road had been addressed. He is intrigued at how cheap our dues are and how much we get done for that. We want things taken care of in a certain way yet when fill becomes available you have to take it when you can take it. Hopes we can put acrimony aside and try to do transition from old to new gracefully. At the end of the day we are neighbors and we all need to get along.

17.

Lot 34 Tim Charwood again: There is an Oct 12 deadline on the notice of violation. Fines of perhaps \$500 per day kick in after that. Reiterated same thing he said before. If the board takes responsibility, then all the costs associated with this trickle down to the home owners.

18.

Lot 106 Drew Jordan again: Support Justin Bitner's comments. We talked about following the rules properly but we are entering a gray area and we can not follow all the rules anymore. 27.5% of lot owners live here full time. There is snow plowing and parking. If you follow the CC&Rs and Bylaws, which are on the website, they say "no snow removal". We non-full-timers understand that and are willing to work with full

timers. Until we get 70% of the membership to vote to change the CC&Rs, the board is trying to work with everyone to make adjustments because they can't follow the letter of the law because if they do there will be no snow removal and we will all be parking somewhere out by Kimball Junction.

19.

Lot 50 Fred Trujillo again: Each owner can plow or not. Just leave room for vehicles that do not need a plowed road. Each person needs access. If you chose to plow down to asphalt, I have to park on the road because I will not run my snowmobile on asphalt. That is not what the deal was 10-12 years ago.

20.

Lot 70 Cara Murphy again: This meeting is about road work on Basin Canyon Rd and we need to stick to that.

21.

Lot 74 Roger Bitner: The county is the one that made the original 100 foot easement on platted lot lines, but the road does not always go through center of easement. The reason it is 100 feet is because the steepness of the terrain requires a lot of room to have a safe slope. Cut and fill takes a lot of room in a mountain setting. The best thing to do is to go get a survey done of your lot to help the board and the road committee to define where property lines are. Brian Bitner told lot owners that (Basin Canyon Rd) was going to be widened and now owners have changed their minds. The road was on Elke's property long before Elke was ever there and the easement is 100 feet. Elke interjected that it isn't.

22.

Lot 2 Elke Touchette again: Wanted to respond to Roger. When you buy a property you buy what is recorded. Your fence (on Bitner Ranch property adjacent to her house) goes across the 100-foot R.O.W. and blocks it. That little dirt road across her property was there when she bought. She immediately tried to change that and to put road over there. The board did not do it when they could have easily done it. What do you think the warranty deed is for? It is a legal description of your property. Where did the historical facts in the presentation come from because she takes issue with some of them. Trust your warranty deed.

23.

Lot 34 Michaelle Peters again: The reason for road widening stated in the presentation was for safety and turnouts. Questions whether if parking wasn't another reason. Two

turn outs were there before so there was no need for them. She went off road in the past and the mature trees stopped her and that would not happen now. Grasses like in the picture of Kimball Canyon Road won't stop anyone. You need a guard rail and that is if the road doesn't cave because of the organics under it. So now (the board) has taken a not ideal road. We would all like it to be a little wider for most of Basin Canyon. Why they have chosen this area for safety is total nonsense and they have created a huge liability where none existed.

24.

Lot 37 Shane Richins: Did get a survey done and 100% of fill is outside the platted easement. So now we have destroyed all the trees and has become a liability, we feel, towards us. There is a big discrepancy between prescriptive easements and platted easements. Hoping Daniel Dansie (SELOA attorney) can explain prescriptive vs. platted easement so we do not continue to destroy other people's property.

25.

Lot 37 Jill Richins again: Angrily addressed SELOA attorney Daniel Dansie. Why does he need permission from Brian Bitner to speak if he is representing the HOA?

26.

Daniel Dansie, Stagecoach attorney: Express easement exists by virtue of a recorded document. Prescriptive easement exists by virtue of historic use. Express easements are delineated on our plats. All follow lot lines and each property has 50 feet of burden, making a 100-foot R.O.W. Elke Touchette interjected that Mr. Dansie should be using the term Right of Way instead of easement. R.O.W. is what is on warranty deeds and prescriptive easement is something different. Dansie continued: CC&Rs are also a recorded document and they also contain an express easement that says each lot owner agrees that there is a 50-foot easement, or R.O.W., along existing roads. Would be good to see Richins' survey. Shane Richins indicated they would be willing to share. Richins asked if they can widen the prescriptive easement and asked for clarification on what Dansie was saying. Dansie said he is not talking about a prescriptive easement at all. He said there are two express easements from the written documents. One is on the plats. Plats predate all warranty deeds. The other is on the CC&Rs and the CC&Rs predate deeds. When we all bought our properties we were subject to what is on the CC&Rs. Plats have 50 feet each side of property lines. CC&Rs have 50 feet easement on existing roads. Need to read between the lines that the "existing roads" language was put into the CCR's because original creators of Stagecoach realized that the roads were not following plat lines. Would be good to see how the expanded road stacks up against the old road. Shane Richins asked if the 50 feet is 50 feet either side of existing

road or is it 25 feet from centerline of existing road. Dansie says it is not clear where it is measured from. Shane Richins says it is not fair to burden a property owner. Someone unidentified from the floor asked if Dansie is saying that if road is not on platted easement then the easement is only a 50 foot easement, not 100 foot. Dansie answered that yes, that is how the CC&Rs read. Charlwood asked if Dansie recommended the fill be removed. Richin asked who pays for the survey. Dansie said there needs to be one done so either they share or the board will have to do another.

27.

Lot 43 Dan Ibach again: Questioned if the CC&Rs are still valid because we are making new ones. Dansie replied that the 1970s CC&Rs still preside. There was a vote taken on the revised CC&Rs but they did not pass. Where CC&Rs don't cover an issue, then the State of Utah Non-Profit Association Act or Community Association Act will be applied. Ibach asked if we intend to enforce the CC&Rs because we pick and choose which to enforce.

28.

Lot 34 Tim Charlwood again: Said similar thing to his other turns. States that the county expects fill to be removed by Oct 12. Asked Dansie's advice to the board.

29.

Daniel Dansie again: He talked to Steve Taylor, Summit Co engineer. After speaking with the engineer, Dansie's impression of what the issues are, are this: 1) what to do about the letter from the county and 2) what rights does the board have to expand roads? County is concerned that the fill is on a property that doesn't want it so they ordered the fill removed. The board should consider this order. At the same time, the board has a right and a duty under the CC&Rs to maintain roads where Board can legally do so. So the question is, what is the footprint allowed to maintain the roads?

30.

Brian Bitner, president: Clarified that there is no concrete in the fill. The county will accept the engineering evaluation if the report says the road is safe. Ed Byer did the (moving of the fill) and Brian Bitner and his son cut the trees down before the fill was placed. Stagecoach is only paying for Ed's time: the fill and his time were free. Arguing from the floor that trees were not cut down far enough. Brian Bitner offered to talk to the Richins family. The county engineer said not to do any work until they said to so, that is why no remedy has been performed. He did have permission from lots 1 and 37 and let lot 34 know and all were in agreement. Brian Bitner talked with Shane Richins for a total

of 3 hours and to Charlwood as the work was being done and both lots were in support. Shane Richins said he didn't agree to the large size. Some back and forth on this issue.

31.

Lot 2 Elke Touchette again: Asked what procedures for a project of that size is required? When is a set of engineering plans from a geotech engineer (not a civil engineer) required? When is a survey required? Brian Bitner replied that the engineers say the fill must support a 40,000 pound fire truck. The dump trucks that were on the project weigh 60,000 pounds and Ed's loader is 46,000 pounds. A professional engineer put his stamp on the report and is satisfied with the compaction. Touchette asked what we are going to do to avoid this in the future.

Brian Bitner stated that on August 15 he called the county and talked to Steve Taylor, a.k.a. Roper. Brian Bitner told Taylor that we wanted to add to the shoulder and asked if we needed a permit. Taylor said we didn't. Brian Bitner talked with him twice about this issue. Disorder in the room as someone from the floor claimed Brian Bitner misled the county by telling him the work was on Kimball.

32.

Lot 37 Shane Richins again: What Brian Bitner said and what happened are two different things. He never agreed to a 20-car parking lot. Brian Bitner replied that he never agreed to that either and wanted to talk to the Richins family. Jill Richins declared there will not be communication between my husband or my family.

33.

Lot 37 Jill Richins again: On Aug 17 she received an email from director Gary Auerbach saying "just for the record, we were all against widening of the road." A lot owner on August 17 emailed several lot owners and said permission had been granted to do this. The email on August 17 said "let's all meet to put some fencing up." The first time Brian Bitner ever called my husband was August 23. Have the phone records to prove it. Why is an email going out to meet on our property to put up a fence to start road work? Questioned director Gary Auerbach that if it was not talked about at the board meeting, why did he approve the minutes? Auerbach replied that there was not a Roberts Rules vote. Richins asked why do the minutes say there was? Auerbach replied that the minutes may be wrong. Richins wants the audio recording of the meeting. Secretary Lucy Jordan replied that we did not record. Richins asked why not..

34.

Gary Auerbach, director: Points out we have 4 issues: (1) How did the road work get done? Did we follow the rules? (2) Is it safe? (3) Road easement vs platted easement.

Is the road where the easement is? (4) CC&Rs, but we need to leave those for another day.

35.

Lot 70 Cara Murphy again: Would add to Auerbach's list (5) road committee function. Stated that anything to do with roads should go through the road committee, including LDS Church camp traffic and hunting traffic. Can we have an agreement that all communication about roads should go through the secretary?

36.

Lot 2 Elke Touchette again: Stated that communication through secretary is a requirement of the bylaws.

37.

Brian Bitner said the board needs to take some time to work on the questions from tonight and we will get back to you. He extended an invitation to the Richins family that we would like to talk to them. Jill Richins said this is not the time and place to talk. Disorder in the room. Richins said they have been advised by their attorney not to talk to us.

38.

Vice President Jackie Pender asked what manner members would like us to respond to these questions. In writing or any answer was one answer from the floor. Director Bill Wilson said we need to look at Richins' survey and we need to address what Charwood brought up in terms of the nine-day deadline. Pender said where we stand now is that we have given the engineer's report to the county and are waiting to hear back from them. We have nothing in writing from the county to respond to.

39.

Jill Richins asked if we can agree to limit parking on the fill immediately by putting up signs or barriers in the next 24 hours? Brian Bitner said that would be ok. His agreement with Shane Richins was that it wasn't supposed to be some massive parking area. Pender asked if signs would be acceptable. J. Richins said that something needs to go up in the next 24 hours showing that there is no parking until we agree where the easement is and we are happy to share our survey with you. Board took a formal vote on signs. Pender moved to put no parking signs on the added fill along the road on lot 37 until we reach a resolution on this issue. Steve Hall second. All in favor except Chuck Grosvenor who wants to do more research. Motion carried.

19:55 Brian Bitner adjourned the meeting.