



NOVEMBER 2019 NEWSLETTER

From the Board . . .

The ICRIA Board is now accepting nominations for the upcoming election of board members. The election will be held at the February 2020 meeting. The ICRIA email address (icria80135@gmail.com) gives you the most reliable way to contact board members. If you do not have email, you can find phone information for board members in the ICRIA directory.

AGENDA for the JANUARY 22 2020 Meeting

7:00 p.m.

Call to Order & Members Present

Secretary's Report

Review and approve prior meeting minutes

Treasurer's Report

Review recent expenditure

Facilities Report

Committee Reports

Trails: Beth Berutich

Architectural: Jamie Dennis

Social Committee: Karen Riley

Sunshine and Care: Lea Marshall

Neighborhood Watch: Denny Leslie

Old Business:

To be determined

New Business

To be determined

Indian Creek Ranch WEBSITE

www.icria80135.com

If you have news to share, a service to offer, or a service you need, please contact me by phone or email: Judy Gelner, 303-688-4136
icria80135@gmail.com

**Indian Creek Ranch Improvement Association (ICRIA)
Homeowners Association Meeting Minutes
November 20, 2019**

Call to Order 7:04

There were 6 members present and all board members were in attendance.

Secretary's Report

Secretary Report was approved

Treasurer's Report

Treasurer's Report was presented, it was voted to update the bank account names to reflect the full ICRIA name to ease accounting moving forward. Checking balance is \$36,148.64, savings \$40,296.55, Capital Reserve \$10,111.40, Playground Reserve \$2,502.86, plus 4 CDs totaling \$40,000. 4 checks were submitted for signature tonight and approved. We need to discuss getting a new laptop as the current one is very old and struggling to perform. Lilo will bring the full budget to the January meeting so we can see if there is room to purchase a new computer.

Facilities

Facilities- Open position, please contact a board member if you are interested in helping. If you need to book the clubhouse please check the website for availability and then email ICRIA80135@gmail.com for the quickest response. The new roof has been installed on the clubhouse.

Committee Reports

Trails- No trails report as Beth is out of town.

Playground- No playground report as Beth is out of town. Board members have visited the playground and are pleased with the improvements that have taken place to date.

Social- Christmas Party will be held December 14th.

ACC- None received this month.

Neighborhood Watch- No report

Sunshine and Care- No report

Old Business

Mike spoke to an attorney who will be in attendance later this evening to answer a handful of questions that were repeatedly brought up in the Voting Booth. The board has waived privilege with the attorney due to concerns in the past with answers not being conveyed correctly.

Andy Contiguglia has been practicing for 25 years in Denver, he has helped manage HOAs and sat on HOA Boards as a part of his career.

Questions:

The current fiscal policy is to collect dues set a budget and put any funds left over in the savings account. Does this fiscal policy align with what is typically seen?

The short answer is yes. What is typical is that the leftover money is typically passed over into a reserve account. Our Bylaws allow for the board to make the determination on either doing so or reimbursing the community. The Board is allowed to assess a special assessment. The Board has the ability to assess higher dues or lower them based on the needs of the community.

A past board spent significant funds on the legal battle over the Penley dam without a vote or approval of the homeowners. Is it too late to re-coup our money? Andy's position is that the board can ask for funds (special assessment) to address this issue. Andy asked for history on this issue from the members present. The grassroots effort came first, then an attorney was retained. Andy feels that there are two angles to this question- The board's expenditure of funds, and the outcome of the attorney's actions. Is it too late to recoup our money? The likely answer is yes, due to the statute of limitations. Could the community sue to attorney for his actions? Yes, but the statute of limitations is 3 years for this type of issue and other steps would have to be taken first. The HOA Board has a fiduciary responsibility to the members of the community, if this standard of care is felt to be broken, the statute is 2 years. The issue with this is that you are basically suing yourself, as any judgement against the Board would be passed onto the homeowners through a special assessment.

If a dues increase was deemed to be necessary, could an exception be made for individuals to be exempt due to age/tenure in neighborhood?

This would not be advisable, unless the community agrees to put a covenant in place (assuming that it does not violate anyone's civil rights). The Alexander lot exception would be a way to exclude with community agreement.

Past boards have allowed direct covenant violations of which there are numerous in the neighborhood. Does a past board allowing a covenant violation make that violation 'Ok' for the rest of the residents?

No, if one person violates the covenants, the Board is responsible for enforcing them. The complaint process is in place, and once a complaint is brought to the board it must be addressed. The board can't be selective in enforcing violations. Our complaints process is that the claimant shall give written notice to the board of their complaint. Our current procedure does not allow for anonymous complaints, without an amendment to the policy. If the resident does not comply with correcting their violation a monetary assessment can be made, and a lien can be placed on the property if the fine is not paid. This can result in foreclosure.

Is it the board's duty to go looking for violations?

Article 3, Subsection C says that the board is responsible for enforcement, but it is not directly required for them to go look for it. Selective enforcement is not allowed, and if that is found to be the case the board would be in default. The board can make a policy to help protect people who are making complaints, but their names do not necessarily have to be shared.

Are the covenants so poorly and vaguely written that they are basically indefensible in court? And if so do they need to be amended.

Andy does not feel that the covenants are poorly written, but that there is some vagueness. Anything that is in the covenants can be modified/amended with a majority vote of the community. A committee could be formed for covenant review, with a vote taken at the end and registered with the county.

Numerous board members feel the need to put up signs on every trail stating basically there is no liability. This behavior puts the trails into question. Is the risk worth the gain? I had never questioned it before but if I need a sign we need to close the trails.

The board has a responsibility to protect the community, as well as maintain the trails. A sign is not a reason to close trails. CO state law, equine liability statute is in place and provides protection. A warning sign doesn't mean that it is unsafe or warrant closure.

Litigation is expensive! Paragraphs 14 & 15- 14. *Failure to Enforce. The failure by the Subdivider, the Association, or any owner to enforce any provision herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto, nor shall such failure give rise to any claim or cause of action against the Subdivider, the Association or any member thereof.* 15. *Enforcement. In the event of any violation or threatened violation of any of the provisions contained herein, the Subdivider, the owner of any lot, or the Association may bring action at law or in equity, either for injunction, action for damages, or such remedies as may be available.* Rates are from \$250-\$750 an hour, the reality is that lawyers don't work for free. If you just sit down and try to address an issue you can usually do so. Most cases take 12-18 months, so most cases will take in excess of 100 hours. If you sue the HOA you are paying for both sides. So long as the board operates within the business judgement rule, as long as they are not being frivolous or deceitful, they are protected. Also, the HOA bylaws are required to reimburse any board member that incurs costs due to a complaint. THE HOA can ask for injunctive relief if a request for enforcement isn't complied with.

The covenants in this development vary between filings. This is due to two different County zonings being in place here. We have both RR and ER. Does it make sense to attempt to get the county to enforce only the weaker of the two?

The question really isn't clear, but if the county has a zoning issue that doesn't have anything to do with the HOA.

What are the responsibilities for the Board relating to trail maintenance? Social functions? Does the HOA have the FINANCIAL responsibility to maintain the trails? Since we are an improvement community, how much should we be spending on trail improvements etc? Is the HOA responsible for footing the bill for the quarterly parties, knowing that these parties were originally potluck versus catered affairs? Seems like dues should be spent on maintaining and improving ICR instead of throwing parties. Serving alcohol is a huge liability issue that should be avoided. With only 20% of the residents using our trails, do we need to keep putting over 50% of our discretionary income into them?

There is a "Shall" for trails, clubhouse, arena, et al. Shall may not necessarily require that the maintenance is paid, but if there are not enough volunteers there is no obligation that it be done for free. It is within the board's right to hire people as needed to meet the obligation. Volunteers are able to participate in maintenance, but it doesn't eliminate the legal obligation. Social committee- define a social function? We are not required to fund the activities, but this again is recommended that we put this to a vote. If we are purchasing the alcohol we are required to police those who are consuming to ensure that we don't incur liability under the Dram Act. There is also the issue of getting a liquor license, ID checking, etc. Plan and carry out doesn't require financial contribution, but as a community we have the right to do so. A social function as defined in our bylaws, could be a day of community service cleaning the trails, a potluck, etc. Tickets can be sold for the social events if decided.

Paragraph 13 states *The Association shall have the right to adopt and enforce reasonable rules and regulations covering the use of the riding trails, and the Association shall also have the responsibility to clear, grade or otherwise improve and maintain such riding trails.* The association SHALL legally means that we are required to maintain "There is NO judge in Douglas County that will say that Shall means optional." If maintaining the trails is above budget the community can be charged. Trails may need to be moved due to acts of nature etc. and if this requires heavy equipment this is at the discretion of the board.

**If previous overages are maintained by the board, can the savings account be accessed like an operating reserve?
Damaged property responsibility, what is the board to do?**

Special Assessment or access other funds. The board has the ability to shift money from one line item into another, this is not restricted by our bylaws. Just because the board can, doesn't mean that it should. Transparency is key. A community vote is recommended on establishing the reserve fund.

Can we have two additional structures PLUS kennels/stables?

Filing 1 addressed. Anything attached to the original house is a non-issue. You are then permitted to have an ancillary building and a stable/shed. If there is just a house on the original plan, no additional building would be permitted? The answer here is unclear as there are mixed interpretations of this, and the suggestion is that we make a vote to amend and clarify, especially as there is no longer a subdivider so that would mean that no undeveloped lot could be developed. The conservative approach would be one additional building plus either a stable or kennel. The fact that stables/kennels is plural muddies the waters, and Andy feels that this is just poor writing from the 1970s. This provision is a good opportunity for the community to come together and vote to clarify the provision. This would be helpful to support the ACC in having something to rely on for consistency moving forward. Also, if the Board denies an ACC request but the homeowner feels that someone has previously been approved for a similar request we could be successfully sued for the lack of consistency. Anything that has a previous approval can not be undone without a significant legal battle.

What is required to disband a non-functioning HOA?

The HOA is there, if people don't step up and fill the board we would live in a state of anarchy. People are failing to appreciate that communities change and that there is turnover. Ideals and principles change, and with that people have to evolve and step up. If we don't want to volunteer and make the community better we only have ourselves to blame. Discussion ensued that in order to sell off the community property (which would be required to disband the HOA) there would need to be a 100% approval of the community which is very unlikely to happen.

Please mention that Betty was challenged (during HOA meetings) about privileged communication with the lawyer. Betty would not allow anyone to communicate with the lawyer except herself. As residents, we would like to know whether or not she accurately relayed the lawyer's recommendations/advice? If not, should she reimburse the HOA for any legal fees paid?

Andy would have to look further into where the line of confidentiality lies, but the board may not be under the obligation to pass on that information. It is very unfortunate that there has been poor leadership in the past that has led to feelings of distrust in the community. Transparency is good for trust and Andy hopes that the board moving forward is open with the community.

What recourse does an HOA have when renters of homes bring in all kinds of trailers, ATVs, motorcycles, toys of all descriptions?

The owners of the properties are required to hold the renters to the covenants. Many communities have a provision in the covenants that say that the renters have to comply with the terms of the HOA and must be a provision of the lease. That protects the HOA and the Homeowner as responsibility is passed to the tenant. If this is not in the lease the tenant can claim to not be aware of the regulation and the liability will remain with the tenant. Not having this provision is a huge liability on the owner of the property.

And does an HOA have the right to ban renting of homes in a community when it is a primarily single family owned one?

We can't ban long term rentals, we could add a provision banning short term rentals (need to check county ordinance to confirm).

Animals (background): It occurs that residents do not maintain their fences so that horses or other equines are properly kept from the roads. When an animal does get loose, all efforts are made to contact the owner and make sure the animal is safely returned. However, some residents maintain that, since Colorado is an open range state, it is the other homeowner's responsibility to fence their property if they do not want horses on their property. Is it true that the owner is not liable if his animals are loose and are causing harm, as in causing a car accident? Especially, if the reason for the animals being loose is poorly maintained fencing?

There is a legal responsibility to maintain the safety of the animals. 6- Animal provision states ... *provided, however, that all horse stables, dog kennels or similar structures must be kept in a clean and sanitary condition and all dogs, horses or other animals must be kept, quartered and maintained so as not to constitute a nuisance or annoyance to the owners of adjacent lots.* Andy doesn't believe that the members of this community qualify for Open Range status under Colorado Law which he would need to clarify, but it doesn't apply due to our above language on animals from the Covenants.

What does Colorado State Law and Douglas County Laws say about this responsibility regarding trash and weed control (specifically "noxious" weeds)?

Andy stated that the Nuisance provision *No obnoxious or offensive trade or activity shall be conducted upon any property in the Subdivision, nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.* This would apply to the issue with weeds. On the community areas the Bylaws state that the HOA *keep in good order and condition the clubhouse, arena, and any other common areas or facilities as may be acquired or become subject to the jurisdiction of the Association.* An easement is a right of use of a private property and would not fall under this provision. There is a catch all with provision 16 *In general, to carry on the administration of this Association and to do all those things necessary and reasonable in order to carry out the purposes of the Association.* That gives a lot of leeway for us to do what needs to be done to maintain the weeds, as it is recognized that the weeds will spread if not maintained. Regarding trash the question is not clear.

Can money be moved from one budget category to another, as long as the total budgeted spend is not adjusted? And does excess money have to be returned at the end of the budget year?

It is up to the board to allocate the funds appropriately. As previously addressed excess money does not need to be returned.

How have other rural communities approached the community needs if they do not increase homeowner fees?

This is not a legal question and this would be up to the communities to decide.

A huge thank you to Andy for taking on the task of reviewing these items for us and coming to the meeting to speak and field questions.

New Business

Beth Berutich has volunteered to join the Board, filling the role of Vice President. Additionally, she would continue to serve as the Trails Committee chair at this time. The Board voted and unanimously approved of the appointment.

Have a safe and happy holiday season!

Meeting adjourned at 9:49

Respectfully submitted
Deb Dennis

Welcome New Neighbors!

These new neighbors have been here several months already.

Finally we managed

to get together. Welcome, Jeremy and Amber Kavan, lot 189. Jeremy does metal fabrication; creating things like deck railings and staircases. He loves classic cars and motorcycles. He builds custom hot rods and motorcycles. He says "I moved out here to simplify my life".

Amber is a beer and wine representative for Western Distributing. As a district manager she travels a lot visiting places she sells products for. She enjoys snowmobiling, boating and gardening...says she learned what deer LIKE

and will make some changes next spring. She also distributes Arbonne, a wellness line of many products.

Their 24 year old daughter lives in Denver. She is a hair stylist but has recently enrolled in school with a medical interest. The Kavan pets are 2 rather old dachshunds. What I enjoyed so much at our visit was that Jeremy couldn't say enough about how wonderful it is to live out here in Indian Creek. He absolutely loves it and is so happy they are living here. They came from Englewood which they found too crowded and noisy. So a heartfelt welcome to Amber and Jeremy.



Monthly Events at Indian Creek Ranch

<i>Event</i>	<i>Date</i>	<i>Time</i>	<i>Location</i>
Mountaineers 4H Club	Third Tuesday, December 17	7:00 - 8:00 pm	Clubhouse
ICRIA HOA Meeting	Fourth Wednesday -January 22 [no December meeting]	7:00 - 9:00 pm	Clubhouse
Poker Night	First Friday, January 3	7:00 - 10:00 pm	Clubhouse
My Time Book Club	Second Wednesday, January 8	7:00 - 9:00 pm	Varies
Thunderbird Water Board Meeting	Second Thursday, January 9	7:00 - 8:00 pm	Clubhouse
Dining for Women	Second Tuesday, January 14	6:30 - 8:30 pm	Clubhouse

The Helper List

Are you looking for a little help around your house/property? We have some great kids right here in our neighborhood that would love to earn some extra cash! Below is the list which includes just a few of the possibilities of how they can help. If you would like to add a name to the list, please send me a note at BethBerutich@gmail.com.

Name	Age	Jobs	Contact Information
Jackson Vitti (Melito)	18	pet care and sitting including horses, barn work, yard work, hay stacking, heavy lifting, yard work and mowing typically available on Mondays and weekends	720-472-1230
Lizzie Erickson	16	babysitting, pet care, house sitting and dog sitting, hard worker with household chores	303-663-5145 erickson.lizzie@gmail.com
Dani Dennis	19	American Red Cross certified babysitter typically available during the day, but evenings with advance notice	303-748-2052
Michael Dennis	14	dog walking, pet sitting, yard work, snow shoveling	303-619-8107
Cole Dennis	12	dog walking, pet sitting, yard work, snow shoveling	303-704-7603
Brad Berutich	16	yard work	720-822-8127
Alex Cerullo	17	pet sitting	303-501-3914
Lauren Daniels	14	available for pet and child sitting, has taken American Red Cross babysitting, CPR course	303-904-4929
Kurtis Daniels	16	yard work (has prior experience) and unloading/stacking hay	303-904-4929
Tony Shaw	16	available to help out with most any kind of job	720-733-2016
If you would like to add a name to this list or update your information, please email BethBerutich@gmail.com .			



REAL ESTATE



**Hi Neighbor!
How can I help
you?**

I am a full time,
full service real
estate

professional and have called
Indian Creek Ranch my home for
over 15 years. I specialize in
acreage as well as residential
properties in the Denver Metro
Area.

Please call me any time with any
of your real estate questions or
needs and a free Market
Evaluation of your home.

Shirley Pettit, Realtor
Your Castle Real Estate
shirleypettit@yourcastle.com
phone: 303-902-9970

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cowen42@yahoo.com or
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ITEMS FOR SALE

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If you have fine, limp, thick, curly,
frizzy, or thinning hair then I have
something for you! Message
Brandy at
uga1_dawgs@yahoo.com to try a
FREE sample of hair products.

Check out [https://](https://brandyfaker.mymonat.com)
brandyfaker.mymonat.com for
more details.

Veterinarian

Dr. Kathy Gaughan is now full
time at Brooklyn Veterinary Clinic
in Castle Rock!

M, W, F 8am - 6pm; Th 9am -
5pm; Sat. - by appointment.

www.brooklynvet.com
303-688-9352
@brooklynvet.com

Indian Creek Ranch Homeowners Association
Next Meeting Wednesday **JANUARY 22 2020** @ 7:00 P.M.

*ICRIA
P.O. Box 96
Sedalia, CO 80135*