

Park East Square Homeowners Association Annual Owners Meeting, December 9, 2025

Call to order 7:15 p.m. via Zoom

Attendance

Board

Lois Bennett, President Mark Liebendorfer, Vice President Karen Fassler, Secretary
Ruli Warner-Rosen, Treasurer Greg Butt, Director

Staff and Administrative Agent

Brent Chapman, HOA Facilities Manager Al Orendorff and Steve Henry, Trio Property Management

Guest

Eric McLennan, Altitude Community Law

Owners

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| Ardele Anderson | Scott Ellis | David Longenecker | Antje Sliger & Bjorn Bergmann |
| Robert Allen | Diane Ewasko | Sandy Lowery | Rene Sotola |
| Christiane Audi | Betsy Friess | John Malcolm | Therese Spears |
| Heather Ballew & Krister Shalm | Kathy Gibson | Gina Martyn | Patrick Stifter |
| David Bartelt | Charles Gottlieb | Rita Mitton | Lauren Vice (for Art & Marilyn) |
| Lanai Bayne | Candyce Gustafson | Timothy Molnar | Arika Virapongse |
| Paula Blum | Eric Hagen | Steven Monk | Ivette Visbal |
| Kenneth Booth | Steven Haymes | Andy Neff | Martin Walter |
| James Christoph | Pat Jeske | Karen Pigott & Aisling | Richard Welty |
| Isabella Cobble | Tim Johnson | Roxanne Royce | James Greenberg |
| David Depagnier | Jane Kryska | Suzanne Segalowitz | Kristin Alexander & Colin Stynes |

15 proxies were also received. Quorum was established and the meeting began.

Reading of the Annual Owner Meeting Minutes. Karen read the 2024 minutes and moved to approve the minutes as amended by adding two words, and Lois seconded. The minutes were approved.

Owner Education. Owner education needs to be part of the annual meeting and should cover more than maintenance.

1. What is an HOA? Eric McLennan, an attorney with Altitude Community Law, was introduced to present the basics of what is an HOA and the duties of a Board of Directors.

- A non-profit corporation with the purpose of maintaining specific aspects of the community's buildings & grounds*** (for instance: providing trash & snow removal, irrigation & mowing, recreational facility operations, common water & sewer lines, mailboxes, building & parking lot repairs, etc.). Eric noted that the governing documents and statutes control the organization. As a commercial organization, resources are pooled to go toward grounds, utilities, and other services as noted above.
- Among other functions to set forth under Colorado law and the Association's governing documents, an Association – acting through its Board of Directors – has the authority to:

- Levy assessments to fund the above services and manage finances. The Board decides what to assess owners, decides what maintenance and repairs have priority, and how assessments are spent.
- Make prudent decisions, based on reasonable research and consultation with professionals, in the best interest of ALL owners, i.e., the “community as a whole.” The key is “community as a whole” term.
- Enforce governing documents, including architectural guidelines, covenants, restrictions, rules, and policies. An example is the enforcement policy. It is a Board function to adopt rules and policies, in accordance with governing documents. Again, prudent decisions are based on researching with professionals.
- Oversee a managing agent (if any), and other professional consultants.
- ❑ A question often asked is, “When do we get to vote”? Owners vote on specific matters as allowed by the governing docs or as required by Colorado law. Such as voting on amendments or electing directors to the Board. Eric explained that the Declaration is the prime authority that, when you bought, you became subject to all the duties, rights, and authorities. Under the Declaration are other, more specific documents: Bylaws cover governance; Articles establish the corporation; and rules, policies, and resolutions explain and clarify the weightier controlling documents. The Declaration is the framework for the powers of each, such as owners voting on amendments and electing directors.
- ❑ Otherwise, all other actions of the HOA are performed by the Board of Directors.
- ❑ Officers must be Board members, Bylaws prescribe specific duties.
- ❑ Duties of any officer can be delegated to the Managing Agent, a committee, or another Board member.
- ❑ Committees formed and chartered as required to assist the Board.
- ❑ Declaration of Covenants is the document of prime authority. Therein are the duties, obligations and authorities for maintenance and insurance, assessments, use restrictions, architectural review.
- ❑ Fiduciary duties of Board members. What keeps a Board from running amok are the standards of conduct:
 - Duty of Care – standard of conduct
 - ❑ Act in good faith. Have good intentions to do what it believes is in the best interests of the Association as a whole.
 - ❑ With the diligence and care of ordinarily prudent person in same or similar circumstance. It is not negligent(e.g., outside the realm of how prudent person would act).
 - ❑ Informed decisions, business judgment rule.
 - ❑ Hire & follow advice from qualified professionals. Boards are not subject matter experts so expected to use those who are, e.g., legal, engineer, reserve specialist, CPA.
 - ❑ With the best interests of the *Association as a whole* in mind.
 - Duty of Loyalty – put the interest of the Association above personal interest.
 - Duty of Obedience – abiding by all governing documents and law, both Colorado and federal.
 - Duty of Confidentiality – keep certain information confidential and not use for personal gain. Use advice of legal counsel as needed.

The Board speaks with one voice and acts uniformly with regard to board decisions, even though individual directors may not agree. The Board will deliberate, research, review, seek advice, and vote or decide and then act as one.

2. Plumbing and Sewers. Brent presented recommendations based on findings from this year’s inspection of 1/3 of sewer lines. We have started using a camera more frequently. A photo of a D unit chase and the sewer line being replaced was shared.

1. All owners should get their lines inspected via camera. The line is the owner's up to where it joins the common line.
2. Specific D unit owners that were surveyed in this cycle and that need repair will receive a letter.
3. \$\$\$ to repair, but better than having a sewage spill. It is not cheap to repair the line but it is cheaper and better than waiting until the line rots and spills sewage.

Q&A on Owner Education

- Can a Board assign new obligations to owners without their vote? Eric replied that a Board is responsible for interpretation of documents, which is especially common with documents that are decades old, but it cannot amend the Declaration without owner vote. Eric noted that the court will apply the business judgment rule to see if a Board followed the process for its action/decision. He also pointed out that the 75% in Article II to amend our Declaration is 67% by Colorado law.
- What happens if a lesser document conflicts with the Declaration? Eric said the Declaration prevails unless law has overridden it. Policies are interpretations so it is invalid if it conflicts. He added that there is a difference between conflict and interpretation. Lois pointed out that is why we often seek legal review.
- In response to a question about release of a report/opinion the Board may have, Eric said CCIOA addresses records requests but noted the Board cannot release professional opinions. In response to a question related to disagreement with adoption of a 2018 policy and how it could be done, Eric said this is a specific allegation and accusation, without context, so he could not answer.
- When asked about applicability of CCIOA vs. the governing document, Eric explained some provisions apply and some do not for us. In the process of modernizing, we must account for that and make sure to comply with those that are applicable. If a provision says it is applicable unless the governing documents say it does not apply, it is often changed as documents are modernized.

Governing Documents Status. Karen covered why, where we have been, and where we are going with the governing documents project.

- ❑ Why? A rumor persists about scope of the project. The reasons or goals were stated at the outset and have not changed throughout the process. The following quotes were taken from what was said about the intent from the beginning. They show that legal compliance, albeit important and more than CCIOA, was not the only reason. It included removing obsolete provisions, revising insurance provisions to address practical challenges, addressing gaps and ambiguities, etc.
 - "some provisions are outdated, impractical, no longer appropriate, which has a practical impact on the board's work". (2/13/24 Board Meeting)
 - "...provisions are outdated, ambiguous, impractical, contradictory, or no longer appropriate for our community." (2/21/24 email)
 - "...several reasons: bringing them current with Colorado law, removing all obsolete provisions related to the Declarant (i.e., the developer of the community), addressing gaps, clarifying ambiguities, removing unwanted provisions, revising insurance obligations, and otherwise reflecting the needs and desires of today's community." (2/24/24 letter)
 - "...to bring them current with Colorado law, remove obsolete provisions, address gaps, clarify ambiguities, remove unwanted provisions, revise insurance obligations, and otherwise reflect the current practices and needs of the Association today." (7/14/25 letter) and "The Board has a number of reasons for amending our half-century old governing documents, but in general, they have not kept pace with changes in law, best practice, and our current practices and needs to efficiently and effectively conduct business on behalf of the Association." (7/14/25 email)
- ❑ Where have we been? This quick timeline highlights owner participation opportunities.

- Announced the project at 12/12/23 Annual Meeting.
- Solicited volunteers for the Working Group on 2/21/24.
- Comment period began – distribute draft package (letter with full list of revisions, notes with each provision in drafts) on 2/24/25.
- Information meeting with attorney on 3/10/25. Comment period extended to allow 90 days. Shared comments from 12 owners verbatim on website and email.
- Approval process began - mailed, emailed, and posted the package on 7/14/25 (letter, directed proxy form, summary, and list of revisions).
- Information meeting with the attorney on 9/18/25.
- Voting process was stopped on 10/15/25.
- ❑ Why did we stop the vote? To be very clear, the withdrawal of the documents stopped the voting process but did not stop the project. We did not have enough proxies to be able to vote. There was no vote!
 - The Board wants to gather more information and consider what to amend before putting the revised proposals out for another vote.
 - Where are we now and what’s next? Planning activity is paused to take care of other imminent business, the resolution of the maintenance/insurance question, and the election. It is unlikely that planning will start again until the end of January at the earliest.

Insurance/maintenance question. Lois said we just received information to clarify some confusion from an interaction between an owner and our insurance agent, and we also just received the legal opinion. She noted that the legal opinion cannot be shared so she is reporting what we’ve read so far. A report will be sent to all owners later. Maintenance comes first, then insurance follows.

- ❑ The HOA is only responsible for maintenance of roofs, siding, trim, gutters and structure/build-out of certain “common easement areas” in each building . The maintenance and insurance obligations inside the building are limited to the carport, hallway, trash room, storage closets.
- ❑ Owners are responsible **and have always been responsible** for maintenance of all improvements on their lots, including structural maintenance. These are townhomes, not condominiums. The structural portions of a unit are not owned by the HOA for the use of all owners.
- ❑ Real examples of structural maintenance:
 - Rusted out support posts in crawlspaces,
 - Sections of joists removed by original contractor to accommodate plumbing and not reframed,
 - Rotten rim joists.
- ❑ The HOA is obligated to insure what it maintains. But a policy that only insures the above elements is impractical. Therefore, the HOA opted for an industry standard “studs out” shell policy which will restore a weathertight shell in the event of an insurable event such as a fire or a tree falls on a building. The policy insures **more** than what the HOA is **required to insure**.
 - Worth noting that the insurance requirements under CCIOA do not apply to PESHAs because we were created before 7/1/1992 **and** we are not a condominium community. We are townhomes.
- ❑ The HOA legally reduced the insurance in 2021 from “all in” to “studs out”. Owners are now responsible for interior walls, doors, cabinets, plumbing, wiring, etc.
- ❑ Three reasons: We were under-insured with the “all-in” approach; premium increases were becoming unaffordable; and carriers would not bid due to vague language in our Declaration. We consulted with legal and our agent who specializes in HOAs and the Chart was developed.
- ❑ The Maintenance and Insurance Chart is a clarification of Declaration language. The Board has the legal authority to interpret unclear language and case law shows courts defer to a board’s decision as long as the Board follows the duty of care.

In conclusion, based on legal advice, the Board had the right to interpret the provisions of the Declaration as part of its authority to make reasonable, informed business decisions, and the Chart was adopted reflecting that interpretation. In addition, not only did the Board have the authority to reduce the HOA's insurance coverage for interior portions of the units, it was also part of its fiduciary duty to comply with the current Declaration. It was also noted that should the owners want to require different coverage for interior portions of the units, it must be done through an amendment to the Declaration.

The Insurance Agent emailed the following statement to clarify the unfortunate miscommunication.

"...it is important for all community members to understand that the HOA's insurance policy is written in accordance with the Association's governing documents (CC&Rs). The insurance provisions within PESHAs CC&Rs follow industry standards. Over the past eight years, most homeowner associations throughout Colorado have amended their declarations to align with statewide changes and to help manage rising insurance costs. Associations that have not updated their declarations are now facing significant challenges, including sharply increased insurance premiums with reduced coverage options.

We understand there is ongoing uncertainty about which type of homeowner insurance policy is appropriate. We strongly recommend that homeowners carry an HO6 policy with loss assessment coverage. Homeowners who maintain an HO3 policy may be left financially vulnerable, as this type of coverage could result in out-of-pocket expenses for loss assessments related to wind or hail claims.

It is essential to note that Loss Assessment coverage is triggered only by a covered insurance loss. Because special assessments for maintenance projects do not qualify as insured losses, they are not eligible for coverage under a homeowner's policy."

Owners are encouraged to purchase HO6 policies with adequate loss assessment coverage and dwelling coverage to be able to finish wiring, HVAC, insulation, drywall, cabinets, plumbing, interior stairs and doors, etc., in the case of an event like a fire.

Q&A on Governing Documents Status

- An owner asked about Boulder code and HOA code, permits, and the definition of townhome. Eric explained that Boulder does not have the authority to determine if we are townhomes, that is our governing documents. It is an "apples to oranges" comparison. Boulder has its own purposes and interpretations of townhome vs. condo. Lois noted this was discussed with the Planning Department in 2017-18 and was told permits were not needed for siding repair but we can look at permitting again to see if anything has changed. When asked if he would put this in writing, Eric said he cannot because he represents the Association. In response to the comment that he represents the Board and not owners, Eric clarified and reiterated that he represents the **Association**.
- Does a weatherproof shell include windows and doors? Yes.
- Based on the opinion of a personal insurance agent, an owner asked why our policy is contrary to industry standard. Our insurance agent who specializes in HOAs says our policy is industry standard as stated above.
- An owner asked about the rusted support posts and rotted rim joist. John Malcom, a professional structural engineer, was asked to speak. He had to replace his rusted posts, which was not too expensive. He has found the problem in 3 to 4 other units he has inspected so it does happen. It is a good idea to check the posts periodically.

- An owner asked for the specific point in the Declaration that says what an owner is responsible for. The Declaration could not be readily displayed but Article VII was mentioned. The meeting needed to continue so the citation(s) will be sent with the report. Eric explained that most declarations do not contain a detailed list of owner responsibilities. He also said it is important to understand that the document must be read and interpreted as a whole so the sections need to be taken together. He has read the opinion and supports it.

Maintenance and Major Project Report.

Major Project Report. The following projects were completed in 2025.

- Paved $\frac{3}{4}$ of largest cul-de-sac (1150-1186), relocating drain pan to prevent ice damming. Remaining $\frac{1}{4}$ to be done in 2026.
- 2 parking lots serving 11 buildings remain.
- 3 Building exteriors repaired and painted. Photos of carport headers were shared showing a typical one with water staining and minor cracks versus rotted headers and supports.
- 3 D-unit balcony railings (15 done of 55).
- 2 D-unit stairs (17 done of 55). Before and after photos showing stairs up to code were shown.
- Gutters and downspouts replaced on 12 buildings. Gutters and downspouts were also cleaned twice and sometimes realigned as owners identified issues to prevent ice accumulation.
- Pool filter, pump motor, and new furniture.
- 2 new mailboxes installed. 5 have never been replaced.
- Reserve study and annual financial review.

Maintenance Project Report. The Building Repairs and Painting Cycle was displayed showing the current 9-year cycle that we would like to shorten to 8 years. Several photos were shown of the typical siding repair and a repair to a carport beam. The following maintenance projects were completed in 2025.

- Main sewer line clean outs are completed on a 3-year cycle - 16 sewer lines inspected via camera/cleaned in 2025.
- 4 main sewer lines repaired.
- 4 Pressure Reducing Values (PRV) replaced in 2025 - a total of 43 valves over the years. 12 have never been done so we keep testing the pressure. A photo of an original PRV was shown.
- Replaced 5 main gate valves with $\frac{1}{4}$ turn ball valves. Photos of an original gate valve and a new ball valve were shown.
- Replaced 4 hose bibs.
- One major sprinkler leak repaired between 1131 and 1141 (near the curb).
- 2 large trees removed this year. Also cut back or cabled any that endangered buildings or sewers.
- 3 new trees planted.
- Phase 2 of parkstrip project, along Monroe from buildings 1150-1110, is complete. The project started as a result of owner complaints over the years about the appearance of this area.
- Wildfire mitigation – removal of 85 junipers with a grant (saved \$14,000).

Project Plans Budgeted for 2026.

- Repave remaining $\frac{1}{4}$ of 1150-1186 parking lot.
- More PRVs, main water valves and sewer repairs as needed. Have identified some with issues so will doing those soon.
- Repair and paint 7 buildings including a few more D unit stairs and railings.

- Budget placeholders for the sinking floors in the pool bath house, replacing mailboxes, and gutters and downspouts as needed.
- Next phase of parkstrip project working along Monroe Drive towards Colorado.
- Tree removals, structural pruning, bush pruning, tree health as needed. It is a lot of work for staff and will likely start in February.
- Finish governing documents project.
- Obtain a long-term master landscape plan.

Q&A on Maintenance and Major Project Report

- Brent and the team were thanked for their work.
- What is a parkstrip? It is the strip between the sidewalk and the street.

Financial Report.

Results of Reserve Study and Financial Review. A reserve study was done along with a financial review of FY 2024.

- A fully funded reserve would be approx. \$5M – we are currently only 4% funded. Other HOAs are underfunded so we are not alone.
- The reserve study recommended a \$1.2M special assessment. Approximately \$450K was recommended as an annual contribution for the reserve, which we have been doing, but then spend it on reserve projects in the same year.
- The HOA **should** be saving \$47 per month per unit starting now **just** for the roofs in 2040.
- Starting in 2026, the budget includes \$10/month/unit for the roofs, and \$4/month/unit for a new tractor. This is not enough, but it's an affordable start.
- A special assessment is probable and eventually will be needed in the future as discussed in October and November. It may be split over several years to spread the payments out. Bottom line is everyone should start saving.

Budget Review and Discussion. Lois reviewed the 2026 budget, which was approved in November based on \$540 dues/month, and compared to the 2025 budget (not actuals). Lines that increased or decreased were noted. Brent and Jessie have taken over irrigation maintenance and monitor water usage monthly. Our insurance coverage costs decreased a bit. We anticipate increased sewer repairs. Reserve contributions increased for the roof and tractor set-asides.

Q&A on Financial Report

- When was the siding last done and why aren't permits pulled? Since 2018, sections of siding are replaced during building repairs. A complete replacement has never happened – very expensive. The Planning department told us in 2018 that we did not need a permit. Brent noted that a building inspector was onsite as a building was repaired this summer and said nothing about needing a permit. As noted before, we will check to see if something has changed.
- Is it better to save up now or wait to pay until it needs to be spent? It is good to have funds in the bank and save over time. For example, the roof replacement needs \$1.9 million, with escalation built in, which is a large one-time amount. It will probably be both strategies. In addition, in the event of an emergency (e.g., major wind/hail), a special assessment takes time get owner approval. It is good to have a certain level of funds in the bank.

Board Election. Two vacancies exist for 3-year terms beginning January 2026 (through 2028). There are more candidates than vacancies so a secret ballot mail vote is required. The process was explained and the two candidates with the most votes will be elected. Trio will manage the election. The slate of five candidates was presented: Christiane Audi, Lois Bennett, Karen Fassler, Steve Haymes, and Roxanne Royce. No other candidates came forward. Each candidate made a brief presentation.

Owner Q&A for the candidates.

Questions were around leadership style, approaches or ideas for the governing documents project, and transparency. An owner noted that the new Board will have to decide whether to stay with the current governing documents or change them. Eric said they do need to change.

General Q&A

- In response to a repeated comment about the Maintenance/Insurance Chart, Eric said he understands the desire to have it in black and white but ownership of maintenance is not always that clear. Our document is 50-years-old and has left things to be desired. He did not write the opinion but read it and is in full agreement. It has been accurately depicted tonight. The Declaration must be read as a whole and interpreted as a whole.
- Do we know the cost of structural maintenance for owners? We do not know how we could find the answer to that. An owner noted that there is no way to avoid costs so the question is if it is more effective if it paid as a group or individual. Lois reminded us that insurance only pays if it is an insurable event. Things like rusted posts are not insurable events and no insurance covers foundations. Mark said the opinion draws the line, for example, the HOA does not give permission for taking down a kitchen wall. Also remember we are townhomes, not condos.
- Can a date be set for responding to the list of maintenance/insurance questions submitted several months ago? Karen reminded the owner of their request to send them to the attorney as part of writing the opinion, which was done and the opinion was just received. Lois noted it will take time due to other business needs the volunteer Board needs to address.
- An owner said it would be good to have the report on the opinion before the next governing document effort because it is an integral part.
- John Malcom noted that a structural report will only identify potential issues or risk possibilities, not who is responsible. He is not aware of any significant issues here.
- An owner suggested that for things such as crawlspaces and foundations, the Board needs to know precedent for what others do, implications for owners, and lay it out in a report so we don't spend time going back and forth.
- An owner said it seemed out of the ordinary to make changes to the documents without a vote. Mark said we did not change the way we operate, the document is vague and we were trying to reflect the way we handle things. Lois pointed out that this was the point of the legal opinion. We did not change the Declaration but clarified what it says.
- When asked if there are any instances of the HOA covering structural repairs, Lois reported that she is aware of only one and it was clearly stated in the Declaration, Article VII because it was a carport. All other structural repairs either have been taken care of or paid for by owners, even if the HOA's contractor performed the work.

Adjournment. On a motion made by Lois, seconded by Mark, and unanimously carried, the meeting adjourned at 10:29 p.m.

Submitted by *Karen Fassler*, Secretary