



# Bear Mountain Homeowners Association

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Web Site – [www.bearmountainhoa.com](http://www.bearmountainhoa.com)

November 2006

**President** – Jim Peterson 303-674-8370  
**Secretary** – Bill Schenk 303-674-6367

**Vice President** – Maggie Cross 303-674-6155  
**Treasurer** – Jerry Roberts 303-679-6824

## BEAR MOUNTAIN HOLIDAY PARTY

The annual Bear Mountain Homeowners' Holiday Party for 2006 will be held on Sunday, December 10<sup>th</sup> from 6:00pm to 8:30pm, hosted by Dave & Brenda Killian once again in the old Joeckel home at 25057 Giant Gulch Road. We request that those attending with last names beginning with the letters: A through F, bring a side dish or salad; G through P, bring a dessert; and Q through Z, bring an appetizer. Turkey, ham and beverages will be provided. We hope to see everyone there, kids included!

## BMHOA DIRECTORY UPDATES

We plan to publish a new BMHOA Directory in December 2006! We hope to give out a new Directory to every dues paying member at the annual Holiday Party. For those that can not attend the party, the new Directory will be mailed out after the party is held. If you would like a new Directory but are not a member of the BMHOA yet, please bring a check for the \$25 annual dues payment to the party and you will get one then.

If there are any updates to be made before the release of the next version of the BMHOA Directory, please contact the BMHOA Secretary, Bill Schenk, right away at 303-674-6367 or email him at [bschenk@schenk.org](mailto:bschenk@schenk.org) with the new information. Thank you!

## MOUNTAIN LIONS AND BEARS

A big mountain lion was seen in mid-October on Bear Mountain Drive next to the fenced compound, and there have been other sightings near Mountain Park Drive and lower on the mountain. Remember, lions are active hunters in winter. When deer are harder to find, they are more likely to consider dogs and cats as food. Also, with the mild weather, bears may not be hibernating yet, and will scavenge more than ever trying to get all the last-minute calories they can find. They are very active, and gladly go after bird feeders, garbage, and anything else remotely edible. Some have recently visited porches and open garages

## DUES & BMHOA FISCAL YEAR

The BMHOA has a September 1<sup>st</sup> to August 31<sup>st</sup> Fiscal Year. This allows us to account for Summer Picnic expenses in a reasonable fashion. Membership dues paid from June through August are applied to the following fiscal year's account. There is a form at the end of this newsletter if you have not yet paid the annual dues for the 2006-2007 fiscal year. Please fill it out and mail it to the BMHOA, or bring it with you to the Holiday Party this December.

# MEADOW DEVELOPMENT NEWS & WATER COURT DECISION

Ron Lewis has now formally submitted to Jefferson County his plat proposal to create four buildable lots in Tract C of Bear Mountain Vista Unit III (the 33 acre meadow bounded by Bear Mountain Drive and Giant Gulch Road). He is being represented by Doug Reed, a former Jeffco planner who knows both the rules and the loopholes. This is the meadow that is the center of our water court litigation. The HOA has been notified, and individual property owners within a certain distance of the meadow have received individual notifications. The formal name of the applicant is Buffalo Park Development Co., the project is Bear Mountain Vista Meadow, and the Case Number is 06-113094PF. The proposal has been sent out to various agencies for review. BMHOA will respond with comments to the county, but **we urge you to respond as individuals too**. The more comments the County receives, the more impact they will have. Jeffco is collecting written comments for a little while longer. A Planning Commission hearing may be held in the near future regarding this application, and we urge you to attend. Again, numbers count.

*Our position is to oppose the creation of the four buildable lots, on three primary grounds.* These are:  
**1. Water.** The meadow is the subject of our water court case, on which we have spent upwards of \$140k. On August 4, 2006, the judge finally issued an Order and Judgment, ruling 100% in our favor. The ruling acknowledged that we have a serious water problem on Bear Mountain and totally rejected Lewis's application for additional wells here. Judge Hays ruled that: **"Water levels in the subject area have declined over time . . . [and] Sustainable yield no longer exists."** The four wells Lewis already has in the meadow were drilled on exempt well permits, which were automatically issued on the statutory assumption that there would be no well-to-well interference. That assumption has now been proven invalid, and we are raising the question of whether those permits should be revoked because of the Court's findings. The Order and Judgment **"found that precipitation was the only source of recharge for wells in the Bear Mountain Vista area, that increasing well depth would be only a short term solution to declining water levels, and that precipitation and septic return flows, alone, would not prevent injury to existing wells."** Judge Hays further wrote: **"the Applicants [Lewis] have failed to show available unappropriated water . . . [and] the operation of the pre-existing exempt wells was continually lowering the static water level in the affected areas. This resulting mining of the water occurs because precipitation is insufficient to replace the depletions caused by those wells . . ."**

In other words, the court has formally acknowledged the problem we have long known exists here through hard and expensive experience. Lewis will surely appeal this ruling to the Supreme Court, but he has virtually no chance of winning. Defending the appeal will cost additional money, and the **Meadow Conservancy will be starting a fund raising effort soon**. We have a solid victory, but must defend an appeal. Written comments should be sent to: Sean Madden, Case Manager; Jefferson County Planning Dept.; 100 Jefferson County Parkway, Suite 3550; Golden CO 80419-3550. (By the way, the evidence and court ruling does not necessarily mean everyone is automatically doomed to have their well go dry. But many wells have gone dry, and more will in the future. It does mean you should be very conservative with water use.)

**2. It would violate our covenants.** Covenant 13 says: "No lot or lots shall be subdivided, except for the purpose of combining portions with an adjoining lot, provided that no additional lot or building site is created. Any ownership or single holding by any person comprising the whole of one lot and part or parts of one or more adjoining lots shall be deemed a single lot. Not less than one lot as originally platted shall be used as a building site." Ron Lewis wrote our covenants. Now he wants to violate them.

**3. Emergency access.** The current Jefferson County Land Development Regulations state that a cul-de-sac may not exceed one mile in length and may serve no more than 35 residential units. The main basis for this is lack of emergency access in case of fire. Our cul-de-sac starts where Bear Mountain Drive branches off from Stanley Park Road. The total length is well over 4 miles and there are already 108 houses here. Reed and Lewis will try to argue that four more won't matter, but our point is that *any* extra make a severe problem even worse.

## WALKING OUR TRAILS IS A PRIVILEGE

Many of the properties on Bear Mountain are crossed by trails which are used by both wildlife and people, often with their dogs. A few residents bar access to their properties, but most of us do not mind if people (and dogs) use the trails, and many welcome such use. This is a privilege, not a right. When you are on other people's property you need to be respectful of the *owner's* rules. In some cases this may mean dogs should be leashed, but in others, dogs are welcome to be off leash. Hikers need to respect this. The rules are set by the property owners, not by the hikers.

## BMHOA BYLAW UPDATE

Our bylaws were amended by the membership at the annual meeting (summer picnic) to create a fifth Board position. The Board of Directors has appointed John Burghardt, the association's immediate past president, to fill that position until the next membership meeting where a vote of the membership will be taken. We anticipate having a brief business meeting for that purpose during our December holiday party gathering.

## DEX-QWEST METRO DENVER WHITE PAGES

Have you noticed that over the past few years that the Yellow Pages have been sent to you automatically but you haven't gotten an updated White Pages for Metro Denver? That's because the Metro Denver White Pages are no longer sent out automatically, but upon request only. To receive a current copy, call 1-877-2-GET-DEX (877-243-8339) and it will be mailed to you within 10 business days at no charge or go online at <http://www.DexOnline.com/> for more information and to look up Residential and Business individual listings. The new edition should be out in December, so you might want to wait and request one then.

## SLASH REMOVAL/CHIPPING

To date, only five people have expressed interest in having their tree slash chipped. We contacted Lam Tree Service regarding discounted rates for chipping and they do offer group discounts. However, five is a marginal number and they need a sense of volume involved. They also indicated that the job goes faster and costs go down when the slash is neatly piled by the road.

If you are still interested, please e-mail an estimate of the amount of slash you have (in cubic yards) *immediately* to Maggie Cross at [maggie4996@yahoo.com](mailto:maggie4996@yahoo.com). They can chip well into November unless there is a heavy snow. If there aren't enough people, a group effort may have to wait until next year.

## SNOW PLOWING ON BEAR MOUNTAIN

If anyone would like to share some information regarding snow plowing services for the upcoming winter season that would be greatly appreciated. If there is a service that is used extensively in this area, perhaps a listing of a contact and telephone number can be made in the next BMHOA Directory, or reduced rates can be negotiated. Please contact any Board member with your suggestions. Thank you!

**FREE!** Commercial grade jungle gym and swing set with glider. Call Maggie at 674-6155. Our kids loved this stuff, but they don't seem to use it much now that they are in their twenties!



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**A \$25 Investment in your Mountain Community!**

If you are a resident of Bear Mountain and haven't sent in the dues for the 2006-07 year, or if you live in the area and wish to join as an associate member, please make out a check payable to BMHOA for \$25.00 and bring it to the next BMHOA party, or send it to: **BMHOA / P.O. Box 2068 / Evergreen, CO 80437**

Please complete the form below and include it with your check so that we can keep the Directory up to date. Dues pay for Newsletters, your copy of the Directory, and your family's attendance at all annual parties, including the Summer Picnic and Winter Holiday parties. They also pay for such things as weed spraying equipment, spray, etc. Dues are voluntary, but only those that contribute will receive benefits! NOTE: Email addresses will NOT be published in the directory, and will only be used for timely BMHOA messages of importance.

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**Phone Number(s):** \_\_\_\_\_ **E-Mail Address:** \_\_\_\_\_

**Family Members:** \_\_\_\_\_