

APPROVED

**Cedar Highlands HOA Board Meeting
April 13, 2023
Cedar City Library, 6:00 PM**

- 1) Welcome by Mike Brask.** Board members attending were Mike Brask, Tom Wootton, Jeff Hartman and Lori Silva.
 - a. HOA members in attendance were: virtually—Steve Danto, Randy Williams, Robin Day, Greg Pierce, Paul & Paula Huddle, Cassie Williams, Steve Hahn, Phil Miller, Jared A. and physically—Rick Silva, Monica Wootton, Deb Hartman, Kevan Toombs, Stan & Nancy Carrizosa, Greg Ditel, and Manny Mosqueta,
 - b. Mike made a motion to approve the March 2023 meeting minutes; Tom seconded, and all were in favor. Motion passed.

2) President's Report

Mike gave the floor to Carson Bagley, our attorney. Carson has been working with Justin Wayment and Paul Monroe closely now. He discussed the new water tank proposal first. He shared a map sent to him by Paul Monroe. The water tank has been proposed to be installed in the northeast corner of the chosen site on HOA meadow. Then rather than running piping to Highlands Drive and then following the existing road/trail, they go straight along our property down the road and then deviate when they get closer to the old existing pump house and to the existing barbed wire fence (which is land that was deeded to CICWCD originally). So, Carson wanted clarification of what land would be temporary easement and what land would be a permanent easement. Carson will work with Paul on this clarification. Unfortunately, CICWCD will need a permanent easement in the area where the tank is going to be placed. Then the utility easement that's 30 feet wide will be a permanent utility easement.

Then, as Carson is showing us the maps, he says there's a water collection area which is a non-disturbance area (which is needed to keep contamination out of the water supply). The next map shows more of the temporary easement needed for construction equipment. They may disturb this area for construction but agree to remediate all land back to normal.

Carson's response to Paul Monroe was to ask that waterline and utility easement run to the north, hit Highlands Drive and stay on the road. Staying fifteen feet on the side of the road and come in at an angle so as not to disturb the meadow.

Carson commented to Paul on permanent easement for tank area. CICWCD proposed a rectangular shape to be fenced off to keep people off it. There will be a breather pipe above ground. Carson stated the HOA's preference is to stay with stacked logs like is up on the meadow now.

Carson proposed a ten-foot radius beyond the outer perimeter of the tank and also proposed the utility easement be moved up to road/trail and keep it there and then as to the sixty-foot easement (temporary). Carson told them he didn't think that would be a problem.

Paul and Justin want the agreement to read that fencing around water collection area would be sufficient enough to keep all livestock and people out (due to potential contamination).

Carson said that raises concerns for him because essentially the HOA is giving them that property. So, Carson will negotiate an understanding that we agree not to let anyone or thing on that property, but we don't agree to be entirely excluded in the case that HOA needs to get in that area for whatever reason.

Paul's response to have utilities located in the existing trail was 'No'—it would be too expensive to go that route.

Additionally, where the tank is located, the property between Highlands Drive and the tank is owned by Linford Nelson and Paul doesn't think they would get an easement to cross that little portion to get onto Highlands Drive. In addition, there are extra expenses where pipes are involved. Paul said they will have to use concrete to support the joints and so adding more curves will contribute to more expense. Paul suggested more of a straight shot (in a year we won't notice any disturbance in the meadow).

Carson asked if he should push for water lines running alongside the road/trail that's already there or accepting CICWCD's proposal of deviating in certain situations.

Mike Brask asked about comment from Carson that Linford would need to agree to cutting through his small portion. Mike said the existing cattle trail didn't require any easement agreement because it's already on the plat map as such. Mike's thoughts were if the piping was following the cattle trail, that the district would be forced to remediate that existing road to better than it is now (this is the access road for the five cabins that are there now). That's why Mike wants pipes to use that route instead of cutting up the meadow.

Mike said if CICWCD kept to main road then they would be hitting their deeded property and what was the boundary of the original water conservancy proposal. Mike said that, right now, they are squatting on our property and asked Carson if Paul discussed giving back that area (this is all depicted in maps that Carson showed to board members). Carson asked Paul and didn't get a straight yes or no. Carson said it would involve more negotiation with them and it would be cleaner to get a solid record, to have an amended plot. Carson said it would be his preference and then we could get granting of easements as we want them. He said he was not sure if the water district is willing to give that land back. Mike said our HOA is not intending to give away any more real estate, but giving easements is acceptable. Carson said that's the way he is proceeding. So, Mike asked the difference with permanent exclusive easement vs. temporary and is it meant for life of the tank and remediation of the area?

Carson said there are no regulations that must be followed in regards to water collection areas, so that's the intent of the term exclusive. But Carson wants to clarify that exclusive does not mean we are giving the land to them.

Also, the need to provide snow plowing to the pump house will be negotiated out of the contract because remote monitoring has been established at the pump house. That agreement will be stricken.

To recap: Mike said that the agreement is to be equal to a ten-foot circle around the tank (the only exclusive permanent easement) and everything else is to be temporary easements (we don't want to transfer any ownership). Carson thinks water district will need up to twenty feet

from perimeter of the water tank. So, Mike agreed with that. We want the language to read as pertaining to fencing: We want the same stack log fencing put back and they will need to totally enclose the tank area because it is a greenbelt area, so there may be cattle roaming the area. The temporary construction easement would be sixty feet and then go back to a thirty-foot easement (15' on each side of centerline). Mike asked that access road be remediated with road base and compaction and put back to drivable condition. Also, they will reseed our meadow with meadow grass.

Carson will send documents to us after hashing these points out with CICWCD. We will need two-thirds of HOA lot owners to vote for this to get their signatures recorded with Iron County. The process is through a directed and unlimited proxy. All HOA members will receive a document to return to the Board Secretary. This will be done by email and hard copy mailing. We will be using the HOA post office box for return ballots and proxies. The mailing address is: Cedar Highlands HOA, PO Box 1921, Cedar City, UT 84721. Email address is: lori@cedarhighlandsHOA.org (Secretary) or board@cedarhighlandsHOA.org (All Board Members).

Carson will combine the Bylaw Amendment with this easement vote (it will come as one together in a packet). Essentially, for lot owners who don't want to do this by proxy, can vote by filling out the top portion to include the lots they own and print their name. They can then designate a specific person to be their proxy OR mark the box so that the secretary is the proxy. This is a directed unlimited proxy. They will mark a box for or against for both the Bylaw Amendment and for the easement vote. By dating and signing at the bottom, they are authorizing the proxy to vote. So, even if the secretary is in favor of everything, he/she has to vote the way boxes are checked. Now, in case of Bylaw Amendment, we have to have fifty percent plus one of the total lots (165 lots) for it to pass.

Note: Important issues related to water—first, we will get 22 fire hydrants installed as part of the arrangement; second, the new water tank will be buried with soil and sowed with meadow grass.

Carson's recommendation would be to have both voting issues on one page so that he would combine water tank placement and Second Amendment change on a single page. We should have a return date listed and encourage owners to respond by email also, so we can move the process along faster.

We have to track to make sure that only one proxy comes back for each lot. Also, Carson suggested to print proxies on colored paper or two different colors so folks know what to return. Providing a pre-addressed and stamped envelope for that return is encouraged. So, Mike decided that separate proxies sent together in one packet would be best. It is important to have the 'Received By' date boldly printed on each. We will publish the date of our special meeting when Carson has ironed out the details with Justin Wayment, CICWCD attorney. Note: Carson stated that this (as to the easement voting) is not considered a ballot, but rather a vote that requires a signed, written instrument to be recorded.

What Carson wants is a final draft that the water district is agreeable with. He wants this done procedurally right and then, and only then, we will give this to our HOA members for voting.

Mike also included into our agreement that the water district agrees to restore that land back to the association if and when the lifespan of this tank has come to an end. Carson said he will include “a reversionary interest” clause. Mike asked Carson about taxation that we are giving up for easements. Does that have to be removed from the greenbelt area? Normally, if property is removed from greenbelt, then there are arrears of property taxes owed. We would want any tax liabilities to fall on CICWCD.

A brief discussion followed about our CC&R amendment (cumulative voting language). There will be no cumulative voting—just one vote per lot.

Stan Carrizosa commented on the amendment change language: wording on the cover letter sent with the packet says the association is moving to prohibit cumulative voting and Stan would like it to say it ‘proposes to remove’ instead of ‘prohibit.’

Debra Hartman asked who was responsible for sending out the voting material and who was responsible for receiving and counting. That will be decided as we form a committee to assist Lori in this task. Debra and Jeff Hartman, Stan and Nancy Carrizosa, Lori Silva and Lisa Hatch will be meeting to define a procedure. We definitely will be mailing out physical envelopes to all HOA owners, plus emailing and possibly hand-delivering, if need be. Jeff Hartman said there are a total of four folks with no email registered with the HOA.

Mike suggested he and others attend Iron County Commissioner’s meeting on April 24th at 9am in an attempt to secure county proxies on the two lots they now own.

3) New Business

Mike said that snow removal cost the HOA \$85,000 this winter (this is 30% less than previous contractor’s pricing, though).

4) Communications

- a. With members has been ongoing.
- b. With attorney, Carson Bagley, continues about the details about voting on CC&R amendment and water tank placement as stated above.

5) Committee Reports and Old Business

- a. Financial report was given by Jeff Hartman
 - i. Beginning statement balance for March: \$174,097
 - ii. Deposits for the month: \$13,644
 - iii. Withdrawals: \$130,055, of that \$100,000 was put into CDs earning 4.25% in \$10,000 increments on March 16th, \$28,179 paid to Pierce Construction
 - iv. Ending balance: \$56,686, of that are \$20,000 in refundable construction deposits. There are still fourteen lots (twelve if you subtract the two lots owned by the county) that have not paid dues this year, so we will have approximately \$50,000 available going into spring.
 - v. Jeff stated that checks to pay \$100 to Utah State Tax Commission and \$50 to Rachel for bookkeeping need approval. Mike moved to approve payment, Tom seconded, all were in favor. Motion passed.

- vi. Jeff reviewed two invoices from Pierce Construction that just came in for \$2,496 and \$8,269. Mike made a motion to pay both, Tom seconded, all were in favor. Motion passed.
 - vii. We are filing an extension to IRS as of April 15th, 2023. We don't owe any Federal taxes but have to file as per law.
- b. ARC (Architectural Review Committee) report was given by Tom Wootton
There have been no new applications.
 - c. Roads—Mike scheduled a roads committee meeting for May 13th at his home. We need to keep \$20,000 in the bank for monsoon season, so we don't have much money left over to work on roads. Juniper, Spruce, and High Cedar drives are needing lots of work and folks living along these are volunteering to chip in on the cost of repairs.
Tom asked about when Rocky Mountain Power would repair Juniper from the ditches they had dug for Linford Nelson's new construction property. Mike spoke with Linford and said he was cooperating. Nothing has been done to date.
Lori received emails and pictures of a resident's driveway that was pretty torn up by construction vehicles turning around in their driveway. They had a legitimate complaint, so the board sent a friendly letter to the future homeowner requesting they address the repairs to the driveway or potentially forfeit their deposit of \$3,000. The letter was sent and received. We are now waiting to see if the builder performs the road and driveway repairs at the High Mountain View Drive residence.
 - d. Fire & Safety Committee—Tom has nothing to report at this time from the committee. A request from Linford Nelson asking to join this committee and offered a site he has for a meeting place. Tom will add him to the committee when he returns from vacation in six weeks. Action: Follow up on this request.
 - e. Website—Kevin has nothing to report.
 - f. Water—Communication between attorneys has taken place as stated earlier. Lori reported that she and several other members attended the most recent CICWCD meeting (Rick Silva, Stan & Nancy Carrizosa, and Lisa Hatch).
 - g. CC&R Committee—Stan Carrizosa reported that all twelve articles needing changes have been addressed and a PDF document is ready. We had budgeted \$12,000 for attorney fees and have reached that for this year, so Mike doesn't want to incur any more legal fees for CC&R changes other than what has already been presented to Carson. We will be looking at the work the CC&R Committee has done at a later date.
 - h. Community sign project—Mike said that the posts are done and Nick Palanza is working on the wood that is to be wrapped with iron. The decision still needs to be made on how

to finish the metal—sand-blasted or powder-coated? Rick Silva said he would rent a mini excavator to dig the holes needed to plant the signs.

6) Member Questions

There were no questions from the members.

7) Next meeting will be Thursday, May 11, at 6:00 pm in the Cedar City Library.

8) Meeting adjourned 7:48 PM.