

**Virginia City Highlands Property Owners' Association
Minutes - Monthly Meeting - Tuesday, May 14, 2013
V.C. Highlands Fire Station Training Room**

Present: Thomas, Flanagan, Watson, McPartlin, and McGuffey

Absent: None

I. Call to Order, Declaration of a Quorum, and Approval of Meeting

Agenda

President Thomas called the meeting to order at 7:11 pm and declared a quorum present. There were no additions or changes to the published agenda.

II. Approve Minutes of April 9, 2013 Meeting

A motion by Flanagan, seconded by McGuffey, to approve the minutes as submitted was approved unanimously.

III. Review of Financial Statements

IV. Thomas reviewed the financial statements for the month of April. Total expenses were \$6,614; income was \$5,827. The cash balance at the end of April was \$310,135.

The complete financial statements are available on the association web site at <http://www.vchpoa.org/Financials.shtml>

Thomas anticipates that the cash balance at the end of the fiscal year June 30 will be very close to the balance last year and within the budgeted amount.

The annual fee of \$3 per lot payable to the Ombudsman's office of the Nevada Division of Real Estate is due in May along with the annual report.

A motion by Flanagan, seconded by Watson to accept the financial report was approved unanimously.

V. Comments by Association Members (NRS 116.31083.5)

Cecilia Lak asked if there has been any progress on the construction of the cell tower on Saddleback. No information was available.

Jaye Fontana asked if Waste Management could be asked to put a new container at the park. McPartlin said that she has been requesting that for some time. McGuffey said he would look into the problem.

Fontana also read information she had gathered about mag chloride, including that it has been banned in Canada and Washington State since it attracts pine beetles.

Darrel Saccheri presented petitions signed by owners on Enterprise, Dortort, and Adobe requesting that no more mag chloride be used on their roads.

VI. Committee Reports

A. Architectural Committee

Rita Lumos reported that there was one application for a new residence on Cartwright west of Delta, which was approved.

B. Road Report

Flanagan presented a report that he had prepared based on his inspection of the roads and work done. A lot of work has been done on culverts that are owned and maintained by the association. He said that private culverts that are plugged are causing problems with drainage in several areas. These should be the responsibility of the individual property owners. He suggested that the Maine manual for the maintenance of gravel roads be studied and followed by the road crews. He has discussed this with road manager Steve Morrow. He feels that the board should notify owners where there are problems.

The report is attached to these minutes as Attachment B.

Steve Morrow was unable to attend the meeting but submitted a written report which is attached as Attachment A to these minutes.

Jim Watson stated that the Architectural Guidelines should be changed to require that any culvert that is installed must have a headwall.

Mary Tallent-Stewart stated that at one time the Division of Forestry cleaned culverts with their water truck for individual owners. They could be requested to provide this service during the summer when they have temporary workers available.

C. Park Committee

McPartlin reported that Doug Fontana has done some repair work on the swings and equipment.

VII. Unfinished Business

A. New Signage for Entrance-Legal Review

No opinion on legality or wording for the signs has been received from the District Attorney's office.

B. Proposed Ban on Wildlife Trapping

The County Commission is revising the ordinance to designate the areas within the Virginia City Highlands and the Highland Ranches as congested areas. Trapping in designated congested areas is prohibited by law. McGuffey stated that the VRWPA was largely responsible for bringing this matter to the Commission.

VIII. New Business

A. Annual Meeting Preparation

1. Set Date for Annual Meeting: The date for the meeting will be Saturday, August 3 at 9:00 am.

2. Approve Agenda for Annual Meeting: The proposed agenda for the annual meeting was reviewed. Thomas suggested that the park committee report be removed from the agenda since it is a County park and not the responsibility of the association.

There are seven candidates for the board so an election must be held. A teller committee appointment and report will be added to the agenda. The ballots will be mailed along with the newsletter at least 30 days prior to the annual meeting.

Thomas announced that he would resign from the board after the end of the fiscal year, so all five positions are open for election or appointment.

3. Prepare Budget for FY 13-14: The proposed budget is much the same as last year, but funds have been added for replacement of the water truck. State statutes require that a Reserve Study be done every five years and is due. Funds will be included in the budget for the study.

A motion by McPartlin, seconded by Flanagan, to approve the proposed budget with the above additions was approved unanimously.

4. Items for Newsletter and Annual Mailing: Historically the bookkeeper solicits the ads for the newsletter and will be asked to do so again this year. If board members know of any potential advertisers they should pursue them.

Thomas will prepare a President's Report and will ask for articles from the road manager, VRWPA, and the Fire Safe Council. McPartlin volunteered to write an article about the park.

5. Picnic Plans: McPartlin will again organize the picnic. She has plans for a revised menu. As usual, volunteers are asked to help with cooking, side dishes, and preparation.

B. Annual Report to the State/Ombudsman Fee

The report has been prepared and will be submitted prior to the end of May as required.

IX. Any Other Matters which the Board Members Wish to Discuss

Flanagan resubmitted his proposed rules for decorum at the meeting for reconsideration. He has made some revisions for the board to consider. The matter will be on the agenda for the June meeting for action.

The proposed rules are attached to these minutes as Attachment C.

X. Comments by Association Members (NRS 116.3108.3(c))

An owner on Cartwright asked if it is necessary to have approval from the Architectural Committee or other entity in order to install a culvert in the front of his property. He does not need to appear before the architectural committee but needs a grading permit from Storey County.

XI. Executive Session to Discuss Possible Violations of the CC&R's, if Necessary

The regular meeting was recessed at 8:50 pm and the board went into executive session.

In accordance with Nevada Revised Statutes the proceedings of executive sessions are kept confidential. Full minutes of the executive session are available upon request.

XII. Adjourn

There being no further business, the meeting was adjourned at 9:12 pm

Respectfully submitted,
Rita Lumos, Recording Secretary

Attachment A

Road Report

The road crew worked on cleaning out accumulated soil around several major association culverts. The next step is to blow out soil from association culverts once the water truck is running next week.

Culvert at the bend on Morgan near Tom Peevers' house was replaced. The ditch walls need to be sloped back and regarded back up to the upstream culvert, which will be completed next week.

The following lists damaged association culverts that require repair: Delta and Cartwright 15 inches (diameter), Empire near Clemens 12 inches, Bonanza and Remington 18 inches, Graves 12 inches, Graves and Fey 18 inches, Clemens 18 inches. There are 2 repairs completed, Cartwright and Delta damaged end cut off. Delta and Goodman crushed end section replaced. There are at least 3 homeowner culverts that are plugged and affect HOA roads including Panhandle and Lousetown, bottom of Morgan, Sazarac near Diablo. The road crew is requesting Board permission to blow out two homeowner culverts, the one at Panhandle and Lousetown and the one on Morgan above the newly replaced culvert. An attempt would be made to do this work. If the crew is unable to clear the culverts the homeowners and Board will be notified.

Road work in accordance with the approved 2012-2013 **LIST OF ANNUAL ROAD REPAIR, RESTORATION AND IMPROVEMENTS (LARRRI)** is scheduled to commence next week approximately May, 20th. The following is the work scheduled in accordance with the approved LARRRI.

Spring Road Improvement Work (May through June 2013)

- Approximately five (5) weeks of road work.
- Ripping, importing ¾-inch road base (as necessary), moisture condition, grading and roller compacting.
 - Work performed on all 13.9 miles of roads.
- Addressing drainage deficiencies including road crown, ditches and culverts.
- Road Stabilization and Dust Suppressant (RS/DS) Material Application^A.
 - Apply RS/DS material to all five (5) main miles of the main gravel roads and 2 miles of select secondary roads^B.

- A) The RS/DS material utilized in the Highlands is a magnesium chloride and organic polymer blend. The product MSDS can be viewed on the association website.
- B) The Road Plan indicates that there are approximately 5 miles of main gravel roads in the Highlands roads including Empire, Sazarac, Clemons, Panhandle, Agate, Adobe, Dortort and Crestview. The remainder of the roads are classified as secondary gravel roads in the Road Plan.

Please note that the first part of the work will include regrade work on Sazarac, Dortort and Enterprise.

It is planned to place $\frac{3}{4}$ " Drain Rock (no fines) on the transition area on Sazarac to the north of Silverado where there is an approximate 50 foot stretch with an unusually high clay content. It is also planned to place $\frac{3}{4}$ " drain rock from the intersection of Sazarac and Dortort, up Dortort towards Cartwright for approximately 100-feet or so where there is an usually high clay content that becomes quite muddy during precipitation events. This rock will be incorporated into the ripped road section, moisture conditioned and compacted as is standard practice.

Following the completion of regarding work on Enterprise, it is planned to import $\frac{3}{4}$ " road base and rebuild the approximate 0.7 miles of Adobe.

The following roads are currently scheduled to received Dust Suppressant (DS) materials this year based on the approved LARRRI including Sazarac (0.8 miles), Dortort (0.5 miles), Empire (1.5 miles), Adobe (0.7 miles) and Agate (0.15 miles). These roads comprise 3.65 miles of the 5 miles of main gravel roads (as defined in the Road Plan) that are currently approved by the Board to received the DS material. Due to some recent discussions regarding DS application on certain roads at Board meetings, the road crew will seek Board consultation prior to the application of DS materials on the remainder of the main gravel roads and any additional roads. If there is approved Board action to revised any portion of the LARRRI, please contact me right away so that changes can be implemented.

For individuals that have questions about what the road crew and road committee have been doing for the roads over the last 5 years please refer them to the archived association Newsletters from 2008 through 2012 located at <http://www.vchpoa.org/info.shtml> . Each year a detailed road report is included

in the Newsletter that presents the details of the road work performed along with different methods and products that have been evaluated. Additionally, in the Roads tab on the web site there is more information on past and current road plans and LARRRI's. Please note that the 2012-2013 LARRRI is presented in the 2012 Newsletter.

Please let me know if you have any questions.

Regards, Steve

Stephen A. Morrow, P.E.
Principal

Attachment B

**Findings in Regard to Road Crew and Issues Raised by Homeowners
Presented and Prepared by Patrick Flanagan, Treasurer
VCHPOA Board
Presented May 14, 2013**

First of all, the findings reported in this document are just my observations and results from discussions and physical observations made by myself, sometimes with the help of others. I have asked questions of various homeowners, the Road Manager and members of the Road Crew. I may have made mistakes and might have arrived at incorrect conclusions, but it was an effort to understand the problems and hopefully to try to find some answers to address concerns made by members of the Association. If I am incorrect in anything, I would appreciate the feedback to make appropriate corrections to get a final result which is more accurate and helpful.

First, I think there are certain givens, rules and constraints which must be all agreed upon as dictating operations of the Road Crew, the Board of VCHPOA and

homeowners. Perhaps the most important is the area of responsibility and the delegation of that responsibility. I think I found major problems here and this accounts for a lot of confusion.

One of the primary missions of the Homeowners' Association is maintenance of the roads. This has been seen to encompass surfacing, culvert placement and repair, drainage and erosion control. Basically these are the main areas. These areas are the responsibility of the Homeowners' Association for ONLY common areas such as the main asphalt, gravel roads and areas where culverts cross these roads and are part of flood control and erosion control. This does not include adjacent or surrounding areas which are the homeowners' private responsibility. Generally this is determined by the property lines of the lots and can be arbitrated by the Architectural Committee or the Board in areas of disagreement.

This is a very tough issue. The success of repair and maintenance of culverts and drainage ditches is also dependent upon the level of care in adjacent areas that are the specific homeowner's responsibility and also one may argue the corollary on this as well. The level of overlap can sometimes be very difficult and challenging. To complicate this, we have many varying situations which are dependent upon degree of slope, vegetation, natural obstructions, etc. While there are certain basic rules and procedures in these areas, they often demand a level of flexibility in solving problems due to many variables. Sometimes it is really a function of just trial and error to see what works. But a base level of knowledge is very helpful in doing the right job.

Up to now, this area has been fairly subjective and dependent upon the experiences of people either working on the roads or who are concerned about them and who may have private road knowledge and experiences. While that is important to success, we really didn't have any objective standard in this area. As a result, I am suggesting that the VCHPOA use the "Gravel Road Maintenance Manual" developed by the Kennebec County Soil and Water Conservation District in Maine. I have discussed this document with both Steve Morrow and Jim Stevens. For the first time, it starts to give us an objective guide in dealing with culverts, drainage and erosion problems and is a great learning tool for anyone working with gravel roads. If there is a better document, we can upgrade to that, but this manual is very well done and done by professionals in gravel roads. It is a good start.

At this point, I'd like to thank Doug Fontana who took the time out to drive me around the neighborhood to show me where we had problems or issues. While I'm

not a road expert, I do realize that most of his comments were just common-sense and were justified for the most part. Most of his concerns can be dealt with by following the guidelines in the Road Manual. Some of the ideas in the manual are innovative and not solutions that we have ever tried particularly in the area of erosion. While I was doing this, I also got involved in repairing a culvert for my friend Mike. I had the same concerns on Mike's project that Doug was concerned about and very similar problems. I have talked to my road contractor as well as with both Steve Morrow and Jim Stevens on these issues and felt comfortable with the answers I was getting. All were the same and seemed to be addressing the particular problems.

The one area where there was some disagreement is in the area of responsibility. Doug Fontana pointed out a lot of areas where there were problems but these areas were clearly not Association "common areas". They are the responsibility of the particular home owners and not the Association. If Road Crew is actually doing work on areas that are not "common", we have some serious problems and issues to address. The Road Crew should only be working on "common area" issues and not be doing repairs or maintenance to property that is not a common area, but the responsibility of the homeowners. To ignore this or violate this presents a very serious problem to the Association.

If it becomes a generally accepted practice for the Road Crew to repair private property, we begin to establish a huge major liability for the Association. This also violates the fiduciary responsibility of the Board to allow such actions as it tends to benefit certain homeowners at the expense of others and does not allow for fair and equal treatment. This expansion of responsibility would negatively impact the Reserve Study and place a very unreasonable burden upon the Association. It also usurps a private land owner's right and responsibility as to how they address their drainage, culvert and erosion problems. I don't think any landowner really would want this to happen. I know I wouldn't. I want the freedom and ability to fix my own problems on my own property in regard to flood control and accessibility. But I also recognize that I must take into consideration the common area of Sazarac and Cartwright where there is a common culvert and make sure that I am not contributing to the disrepair of that culvert other than just normal wear and tear. I think that is the way our Association was organized and I think it is a good way of dealing with the problems. And it keeps costs down and keeps them where they belong as to payment and responsibility. One can clearly see the need for some collaboration between the road crew and the private property owner when these

areas overlap. Good communications is paramount in trying to remove problems and finding the best solutions.

The other area that Mr. Fontana opened my eyes to was just how many culverts are common but are not at key intersections. I was a bit shocked at how many of these there are, but it was clear to me that they were “common” areas that the Association had responsibility for. And these areas also present some of the hardest issues to solve in regard to drainage and erosion. To not do so would mean certain key roads would be washed out and increase costs for the Association. Many of these areas have been in disrepair for quite a while but they are as important as are the culverts at road intersections. This observation was also supported by my talks with Jim Stevens and Steve Morrow.

Attachment C

Proposed Rules for Decorum at the Virginia City Highlands Property Owners' Association Monthly Board Meetings, Emergency Meetings and Road Committee Meetings Adopted ???

1. Each speaker may be required to sign and complete a form available through the Recording Secretary giving a brief description of what they will comment upon prior to speaking. While not required, a written copy of testimony is highly encouraged to assist the Recording Secretary in transcribing the minutes of the meeting. The allotted time of testimony is at the discretion of the Chairperson and can be limited. Members of the Board may question or ask for clarification from the speaker and allow for additional time at the discretion of the Chairperson of the Board.
2. Remarks should be addressed to the Board as a whole and not to any specific member and in no event will remarks be addressed to the audience.
3. Public comments should be confined to the agenda item before the Board and speakers should not discuss other issues. There is a time at the beginning and end of each meeting for making public comment about items not on the agenda. These comments are also subject to the rules on decorum.
4. Speakers should avoid personalities. Vigorous advocacy does not preclude courtesy to opposing speakers and respect for the Board.
5. It is not the intention of the Board to provide a public forum for the demeaning of any individual or group. Neither is it the intention of the Board to allow a member (or members) of the audience to insult the honesty and/or integrity of the Board, as a body, or any member or members of the homeowners' association, individually or collectively. Accordingly, profane, insulting or threatening language directed toward the Board and/or any person in the Board's presence will not be tolerated. Violation of these rules may result in asking the speaker to leave the meeting.
6. During discussion, and while another person is speaking, no person is permitted to disturb the meeting or another speaker. Do not engage in activity while other persons are speaking, or in any other way cause a distraction. Audience members should not indicate approval, disapproval

or other reactions to other speaker's comments. Body gestures and facial contortions by members of the audience are discouraged. No person shall display signs or placards, but the dissemination of written testimony is allowed prior to the meeting.

7. All cellular phones shall be turned off before entering the meeting area and no person shall be allowed to use a cellular phone during the meeting.
8. All persons shall, at the request of the Chairperson or use of the gavel, be silent and stop objectionable conduct. If, after receiving a warning from the Chairperson, a person persists in disturbing the meeting, the Chairperson may order that person to leave the meeting.
9. If the Chairperson fails to enforce the rules set forth here, any member of the Board may move to require him or her to do so, and an affirmative vote of a majority of the Board shall require him or her to do so.

(Disturbing meeting and/or resisting removal – any person who engages in disruptive conduct can be charged with a violation of NRS 203.090 or NRS 203.119 for commission of an act in a public building or area interfering with peaceful conduct of activities.)