



Draft Minutes of the Woodland Valley Ranch POA Annual Meeting

June 23, 2018

St. Johns, Arizona

1. The meeting was called to order at 10:00 am. Zolin Moses welcomed everyone and outlined the morning's agenda.
2. The minutes of the January 27 meeting were read and approved.
3. Representatives of the local sheriff's department made a safety presentation, details of which are outlined in a separate document.

4. Financial Report

Art Fesler-Butts reported on the WVR Financial status January 1 – May 31.

- Total Assets are \$251,874.
- Total income YTD is \$157,693.
- Total Expenses YTD are \$23,753
- Legal Fees YTD are \$6,615
- Road Expenses YTD are \$8,470
- Total Net Income YTD is \$133,991

5. WVR Legal Issues

In January, the board approved increasing the Legal Budget to \$10,000 to enable us to have our attorney in Scottsdale review the WVA POA CC&Rs and Bylaws.

Zolin Moses outlined the events that led to the current legal dispute with the former road contractor, the details of which have been posted by the contractor on social media.

To summarize: Shortly after the January meeting, we received a letter from a lawyer representing the former road contractor demanding \$6,600 in storage fees for a roller used in the maintenance of the roads. Several board members had made efforts to pick up the roller without success. This letter was the beginning of the issue we are currently facing.

Issues have arisen with the installation of culverts at two locations carried out two and three years ago. Following an inspection, it was determined they were installed in a substandard manner. The estimate to repair the two culverts is approximately \$52,000. Following discussion with the board, the WVR attorney sent a counter-demand to the former road contractor's attorney for \$50,000 to effect repairs to the culverts.

The former road contractor had indicated that he had performed work valued at \$2,600 after his resignation. Following much discussion, the board agreed that WVR would pay \$2,600 for repairs he had effected after he had vacated his contract if an invoice was submitted. The previous treasurer offered to help mediate between the board and the former contractor. He was of the opinion that a settlement could be reached with a payment of \$2,600, an apology and a release of all liability. As it stands today, the POA is willing to pay the \$2,600 for work performed with an invoice.

The board has conferred with an engineer, the State Contractor's Licensing Board and the Army Corps of Engineers. The Corps of Engineers advised that the top of the concrete needs to be at least three feet above the highest anticipated water level. During last year's monsoon, the water topped that culvert by 2-3 feet. The POA has paid for that work once, and two years later is facing paying for that work again. The POA Board is representing your financial interests and has tried to settle, but this has not been possible.

The advice of counsel is not to supply a blanket release. The question for the members is are we willing to pay for this work a second time?

A member stated that the old board approved the contract, agreed to the work to be performed and the work was completed based on that agreement. Retroactively, it is unfair to any of the parties to lay blame now. The recommendation was to accept the situation and move on.

It was further advised that we must put signs at these culverts that will not be obliterated by the height of the water. These signs are to warn people of the danger of crossing while the water is high. The terms of future contracts will be spelled out, and permits obtained before the start of any work.

Former board member, Jim Gavin, outlined the history of the Board and the deliberating that took place when hiring a road contractor in the early days of the development of the ranch. He stated that the main reasons for the existence of the board were 1: To support the requirements laid out by the CC&Rs and 2: to oversee the maintenance of the roads and the well. He advised that a section of the entry road into WVR was owned by Bonito Valley and under a joint use agreement that section was to be included in the WVR grading.

Jim suggested paying the former road contractor \$2,000. It was stated that such a settlement offer needs to come from the contractor's attorney. The former road contractor said that he did not want any money but wanted an apology. That will not be forthcoming. However, if POA members are in favor of spending another \$50,000 to repair the two culvert installations, we will move toward settlement through the attorneys.

6. **Community Hall** – The idea of the community hall was outlined, deemed too expensive and the matter is now closed.

7. **Road Maintenance** – Work is required on Anasazi where it crosses with Carizzo. This is the one farthest West. Another area needing attention is where Anasazi crosses the Blanco Wash. Walt is getting prices for the work. Every road on the ranch is graded once a year with quarterly maintenance taking place on some of the main roads. It was asked if a road on the quarterly grading list did not need grading could another in bad condition could be substituted. Walt Vickers advised that if anyone has a serious condition on their road they need to let him know so that he can take a look and work with Rick to take care of the problem.

If owners want the roads to be graded on a semi-annual basis, it could cost the POA a lot more money.

A member asked if Rosie Road could be re-opened as it was believed additional work had been done that would prevent it getting washed out so often. Walt will look into this.

When the monsoons come, the main entrance to WVR along Main Street develops mud puddles below the gravel. We now have a source for gravel thanks to our road contractor, and we will ask him to take care of this.

8. **Well** – The current well has solar panels that allow it to pump water at 3-gallons/minute. If your tote is at the level of the water or below the pump will work as expected until we overdraw the tank. If you have a tote on the top of a high trailer you are going to have trouble. The tank is 10,000-gallon capacity, and each seam indicates 3,300 gallons. The refill rate is 1,800 gallons in a sunlight day. The well is a “convenience” well and was never intended to support the entire water requirements of every WVR parcel. It was expected that full-time residents would eventually drill their own wells or arrange for water to be trucked into their properties. Simple mathematics show that the capacity of the well will never meet the demand of every WVR parcel drawing its allocated amount. The well has been inspected and is full one day, and when checked the following day it is below half. There is a concern that people are taking too much water.
9. It has been suggested that a second well be drilled at the south end of the ranch but this idea has not received support.
10. We continue to have people make suggestions for improvements to the ranch. We would like to point out that if you have a great idea then you own it and you will be expected to carry it out. Do not suggest a project and expect someone else to make it happen.

The meeting was adjourned at 12:15 pm

Submitted by Jo Whitehouse, Outgoing WVR Secretary

Exigent - Draft Minutes
WVR Board Conference Call – Tuesday, May 22, 2018
Conference Call Held Due to Exigent Circumstances

Disclaimer: The following information is subject to Attorney Client privilege between the Woodland Valley POA Board of Directors and Carpenter Hazelwood, Attorneys at law under Rule 408 Protected Settlement Correspondence.

In attendance: Zolin Moses, Ed Sauer, Walt Vickers, Jo Whitehouse. Absent: Art Fesler-Buttts

1. **Roll Call** – The call convened at 8:00 am.
2. **WVR Well** - The Board discussed the complaint that the well pump was not charging, and landowners could not pump water. Ed Sauer had spent the weekend inspecting the well. It appears that if water totes are mounted in truck beds then the height of the tote is above the level of the well and water cannot be pumped. As more and more people are using the well, particularly on holidays, the ability of the well to meet demand is reduced. Property owners were advised upon purchase of their properties that they should drill a well to ensure a supply of fresh water to their homes.

Discussions had taken place about drilling a second well on the south side of the ranch. WVR does not own land on the south side and must either buy one of the lots or at least an acre to install a well. The depth of the aquifer on the south side of the ranch is around 600 feet which would make drilling a well extremely expensive.

3. Claim for Storage Fees by Heltzel and Sons

A letter has been received from the attorney for Heltzel and Sons demanding more than \$6,000 in storage fees for the road roller for 10 months following the contractor's resignation in July 2017. This was unforeseen and deemed unreasonable considering that board members had made several attempts to arrange to pick up the equipment to no avail.

4. Culvert Installations at Mag Hill and Old Meadow

It was brought to the Board's attention that the installation of culverts at Mag Hill (completed two years ago) and Old Meadow (completed three years ago), both long-term projects costing a total of \$50,000 for the two, did not meet the standards required. The Board has a fiduciary responsibility to protect the WVR POA assets and to replace these installations at a similar or greater cost at the sole expense of the POA is unreasonable. The Board agreed that no-one wants to inflict financial harm on the prior road contractor, and the Board understands that the liability insurance required of contractors covers only liability and not work product. However, the assets of the WVR POA must be protected **As previously agreed we should obtain the services of an engineer to determine whether the installations were acceptable. However, to save money photographs and documentation will be submitted to an engineer for a preliminary review before proceeding with an onsite inspection.**

The Board discussed whether the property owners would approve the POA releasing the prior contractor from all liability and absorbing the costs of replacement/repair of the

culverts or whether the costs of such work should be shared between the prior contractor and the POA. The Board is aware that the cost of legal fees to settle this could be extremely high.

Possible Settlement amounts and terms were discussed. The following option was outlined:

Should the WVR POA pay the prior contractor's reduced claim of \$2,500 for work done after he resigned as contractor, but not invoiced at that time, and the prior contractor released from all liability for the quality of the work? The Board will seek advice from the attorney.

5. We will check with Tucson Realty Trust to determine the terms of the WVR POA general liability insurance policy and exactly what is covered.

The meeting was adjourned at 9:00 am.

**Exigent - Draft Minutes
WVR Board Conference Call – Tuesday, May 8, 2018
Conference Call Held Due to Exigent Circumstances**

Disclaimer: The following information is subject to Attorney Client privilege between the Woodland Valley POA Board of Directors and Carpenter Hazelwood, Attorneys at law under Rule 408 Protected Settlement Correspondence.

In attendance: Zolin Moses, Ed Sauer, Walt Vickers, Jo Whitehouse. Absent: Art Fesler-Butts

1. **Roll Call** – The conference call was called to order at 2:00 pm. A quorum was established.
2. **Repair and/or Replacement of Culverts**

The estimated costs to repair or replace the culverts in question is approximately \$52,000. The WVR POA paid some \$50,000 for this work to be done just two and three years ago. Should the POA attempt to claim some, or all, of this money back as we have been advised that the original work was not acceptable.

If we can agree on a proposed settlement amount somewhere between \$0 and \$50,000, that, and the proposed Bylaw changes can go to the attorney for review. A chronology of events leading up to this point will be sent to him as well. The wash at Blanco at Old Meadow suffered significant damage during last year's monsoon which was not a 100-year flood. The Old Meadow culverts are installed just downstream from Rosie Road. The Army Corps of Engineers are the body that would be involved in approving permits.

The prior road contractor is demanding an apology and a release from all liability. It was agreed that no apology would be forthcoming however a release from liability will be on the table for future discussion. A professional opinion on the state of the culverts should

be sought and an estimate of costs. What is the POA's exposure and is there any urgency that would prevent us seeking that estimate prior to responding to the contractor's attorney. It was established that the last communication from the contractor's attorney indicated a quick response was needed otherwise further action would be taken. The current contractor estimated that the repairs would cost some \$52,000 and will require permits.

The WVR attorney has asked to see all documentation and evidence of the prior contractor maligning the Board.

We have images of how the wash was damaged and washed out. The engineer could possibly use those to determine how much damage was because of the weather and how much the result of installation.

A previous Board approved the contractor going ahead with the two installations under discussion, but the Board was not expert enough to determine the standard of work being done. The Board relied on the expertise of the licensed contractor.

A motion was made and accepted to hire a licensed engineer to inspect the installations and provide a report that gives the adequacy of the installations at the two washes. It was further moved and accepted that the share of any deficiencies assigned to the contractor (as opposed to the weather) by the report be the responsibility of the contractor and must be paid to the POA to enable the proper repairs to be made. The proper permitting costs will need to be included in this estimate.

All parties concurred that there would be no apology forthcoming from the Board to the prior contractor.

3. **Social Media Campaign** - A Facebook misinformation campaign is being waged by the former contractor and it is frustrating not to be able to state the facts to the membership. Counsel will be asked about the possibility of issuing a Cease and Desist demand on this issue for all social media.
4. **Voting Issues** - The question was raised as to whether we have yet determined if First United Realty (FUR) has less than 10% of original ownership and thus will lose the nine votes per acre originally assigned.
There has been no success in identifying the original versus second, or foreclosed, ownership status of FUR's WVR properties.
5. **Grazing Contracts:** Don Lann has two that expire in 2022. The terms of Travis Johnson's licenses are unknown. These may be in perpetuity.
6. **Annual Audit** - Does the WVR POA require an annual audit? This question was raised in 2016. Because Tucson Realty Trust (TRT) manages all the WVR POA accounts and no individual Board member has access to any of the check books and funds in the bank accounts an audit is not required. TRT has advised that none of the other POA's undergo annual audits. The WVR POA is a non-profit and Arizona POA's and HOA's are subject to

numerous regulations. Zolin has a copy of the Arizona HOA Handbook for all Board members and this publication clearly outlines all the requirements of our POA.

7. **Proposed Bylaw Changes** - The proposed Bylaw changes discussed at the January meeting (see minutes) have been reviewed by the attorney and will be included in the 2018 Ballot. It is hoped that all members will respond as a two-thirds approval by the membership is required.

The meeting was adjourned at 3:15 pm.

Submitted – Jo Whitehouse, Secretary WVR POA.