

# Yellow Cliff Hope & Carton Hill Property Owner's Association 2024 Annual Meeting Minutes

March 28, 2024

Association: Yellow Cliff, Hope and Carton Hill Property Owner's Association Inc.

Location of meeting; Shanty next to the east end fire station.

5:00pm Sign-in and proxy validation.

5:32

pm, President Rosemary Jarvis/Simon declares we have a quorum and the meeting will commence.

Treasurer, Ethleene Johnson

- Verified that everyone had an agenda prior to starting the meeting.
- The Treasurer seeks to approve the minutes of the 2023 annual meeting.
- Jan Buell raised a couple questions/concerns around the 2023 annual meeting and Ethleene responded by stating the purpose of this 2024 annual meeting is to allow members to discuss current issues and concerns and not to reopen the 2023 meeting.
- Members request they be read and discussed.
- V.P. Doug Nicoll reads the minutes aloud.
- Brian Boschen recommends the title of the 2023 minutes be changed.
- Suggests changing it to the minutes of the annual meeting, not the minutes of the annual board meeting.
- The suggestion was recognized and corrected, as requested.
- Ethleene then facilitated a "show of hands" vote to approve the minutes. She counts 19 yeas. The nays totaled 8 as there were 27 members in attendance. Therefore, the 2024 minutes are certified and approved.

## **Treasurers report:**

Ethleene presented her report using a comparison chart created by member Jan Buell.

- Ethleene started by pointing, the 2023 column you are looking at the profit and loss statement. That information was posted on the website.
- Ethleene explained that the numbers captured under “Services” were the 2023 association assessments collected from members. This categorization is incorrect and will be changed to “Association dues or assessments”

2023 was the first time we were able to send out invoices to assess the members since 2021.

- In 2023 we got payments of \$16950
- In 2022, the new board could not send out assessments as the former treasurer, Barbara Peel, refused to turn over the association financial information until late in the year. In fact, we had to spend money to get the financial information from Mrs. Peel.
- Once the financials were received in the later part of 2022, it took the new treasurer some time to gain an understanding of the limited data provided. That is why no work was done in 2022 on the roads or bush.
- In 2023 we had very limited funds because we were hit with a lawsuit, which required us to spend \$5000 to defend the association which was necessary to protect its members.

In 2023, we had every road in the subdivisions worked on for \$5000, compared to:

- The \$80,000 plus of road repairs spent in 2021 that went to improve two areas of our subdivision which included the road coming out of the Peels driveway and the driveway of another board member, Barbara Hamilton, who was part of the board for just a few days in 2022.
- We are very proud of these numbers because we did a lot with very little money.

Unfortunately, we had to spend over \$10,000 just to get our financial records from Mrs Peel and on a lawsuit to defend the association.

- We had to spend over \$7000 on legal fees in 2022 to get the financial records.
- To date we still have not received detailed records of association assessments paid via PayPal. Jan Buell claimed to have seen those records, however to-date the current Treasurer, Ethleene Johnson, has not received the details that would provide insight of the moneys the Peels commingled in their personal bank account.
- We spent \$5800 on legal fees this year defending the association against the lawsuit.

We have \$6167.73 at the end of the year in our checking account and \$517.87 in our savings account.

Ethleene then paused for questions on the financials.

- Jan Buell stated when the board took over in 2022, there was \$12,000 in the financials. She has asked for a breakdown of the \$7700 spent on the Westfall letters. Her understanding was that the lawsuit required \$5000. However, that was in 2023. In 2022 we paid Westfall to send demand letters to Mrs Peel to get the association's financial records.
- In 2023, the insurance company required a retainer of \$5000 to assign an attorney to defend the association against the lawsuit. Even if the lawsuit cost \$100,000 we only have to pay the \$5000.
- Another member asked where did the \$105,000 come from. Ethleene Johnson explained that Barbara Peel collected much of it from back assessments owed by putting liens on properties. Ethleene also stated it was unfortunate that only two areas were touched with all that money. Jan Buell stated, "well she didn't do that with it, the board and engineers determined to do that." Ethleene thanked Jan for the clarification.

We had some amendments that came up. What we would like to propose is that any amendments that come up are given some time to consider.

- We need to see the old language side by side with the new language to really understand what the proposed change really means.

We would like to form a committee to talk about raising the assessments so when it comes to a vote everyone will know about it.

There are three subdivisions in our community. Hope and Carton which are plots 1 thru 80, Yellow cliff and Sierra Soledad. Sierra Soledad, pay \$100 per their CC&R while the other two subdivisions pay more.

- Two of the three subdivisions are kind of together, one is sperate, meaning Sierra Soledad's CC&R is different than the two other subdivisions CC&Rs.

We need two separate groups to move forward with raising the assessment. That is why it is on the ballot.

The question was asked, who represents Sierra Soledad. It is the owners of plots 81 thru 122.

- A debate occurred concerning the annual assessment for the plots subject to the Sierra Soledad CC&R.
- V.P. Doug Nicoll stated you can't have a bylaw that conflicts with the CC&R. It would be invalid. If the bylaw states the annual assessment is \$500, for example, and the CC&R says it is \$100, the assessments cannot exceed \$100 as the CC&R is the superior document.
- Jan Buell stated that is not exactly what that statement says. It says unless.
- V.P. Doug Nicoll stated that is why we need a committee.

For clarification: provision 15(a) of the Sierra Soledad CC&R states "The annual assessment of each plot shall not exceed \$100, unless this limit is increased by a two-thirds affirmative vote of the members of the association." There is no evidence that two-thirds of the association has ever voted to increase the annual assessment. In 1997 it is alleged that 2/3 of the association voted to amend article two subsection seven and article 5 of the Articles of Incorporation. Neither of these amendments represented 2/3 of the association voting to increase the annual assessment as required by provision 15(a) of the Sierra Soledad CC&R.

#### **5:17 Presidents report:**

President Rosemary Jarvis/Simon.

Road committee report: Early last year the road committee was formed with three members. Steve Vas, Ignacia's Thomas, Josh Revoy and chairman Rosemary Jarvis.

- We developed a three-phase high level plan for the road. The first phase began by smoothing out the road. Every road in the community was touched. 4.32 miles of road for \$5000. Phase two will involve cleaning and repairing the swales to keep the water off the roads. Phase three will involve spreading material on the road to make them easier to drive on.
- We will do as much as we can with the little that we have before June to avoid as much erosion as we can. We are hoping to bring in material.
- The past continuous grading has caused a problem.

The question was asked about an ETA for the swales. The Treasurer responded that we hope to collect enough to work on the swales and get some material down.

#### **Old business:**

The lawsuit can't be spoken about in detail because it is ongoing. The Judge, who was on the case, was promoted to the superior court and it will take 5 to 7 years to get in front of a Judge.

- We stand to get \$10500 back. \$5500 for the culvert repair and the \$5000 we paid for the retainer. The 2021 board spent \$3000 on legal fees in 2021.
- There was \$7717 spent in 2022, and \$5000 spent in 2023. Out of that we stand to get back the \$10500 out of the nearly \$15000 that has been spent on legal fees for the past three years.

A question was asked: is the insurance the HOA has, covering the lawsuit?

- V.P. Doug Nicoll responded, yes, they have a duty to defend the directors, officers and the Association.

V.P. Doug Nicoll spoke about the recommendation of dissolution of the Association.

- The reason to dissolve the association is because we have three CC&Rs and three different subdivisions. Each one of the CC&Rs state we can have an Association. There are no associations you can find that have more than one CC&R. Grape Tree used to have seven. Two lawyers had all of Grape Tree put under one CC&R using an other-than-legal process. If we have an Association for each subdivision, the money that each subdivision collects goes directly to their subdivision. It is fair. You are supposed to pay your proportionate share and in return you are supposed to get you proportionate benefit, but we don't do that. That is why this board did all the roads with the \$5000. Because it was proportional.

President Rosemary stated a perfect example is the \$105,000 spent in 2021. That money should have been spent throughout all of the community, Hope and Carton, Yellow Cliff and Sierra Soledad. However, the money wasn't even spent in two areas, rather, it was spent in front of two homes.

- V.P. Doug Nicoll stated it was \$78,000 for the roads in 2021. But in 2020 \$35,000 was spent on 100 feet of Divi Divi Trail. Over a period of two years \$112,000 was spent on concrete only covering 700 feet of the 4.32 miles of road in our community.

Former V.P. and Roads Committee Chairman, Brian Boschen spoke up and stated "those were the sections that needed it the worst at the time. That's why those were selected."

- V.P. Doug Nicoll responded that it was a waste of money.
- Ethleene interrupted stating "we are not going to debate that". We are just informing the members of what happened.

Ethleene then moved to the next agenda item, the voting and instructed everyone to complete their ballots and started collecting ballots from those that were ready to turn them in.

There was a question about an item on the ballot which Ethleene responded to and clarified that we are not increasing the assessment, we are asking if you want to form a committee to discuss it.

At this point, Brian Boschen stated: "I'd like to make a motion that we accept nominations from the floor." A second was heard.

- Ethleene stated: "we are not accepting nominations from the floor. We have an assigned ballot."
- There were several reasons why the treasurer didn't acknowledge this motion and move to a vote:
  - First, the motion came as ballots were being collected and it would have disrupted the meeting to return collected ballots to allow folks to add members to the ballot. There was one agenda item remaining on the agenda "New Business" and only approximately 20 mins left to complete the meeting.
  - Second, it was communicated prior to the meeting that nominations were not going to be accepted a week prior to the annual meeting, let alone during the annual meeting.
  - Lastly, in his haste to allow one member who missed the nomination deadline, the motion Brian raised was not a valid motion as he failed to say "I move that" when making his motion. According to standard parliamentary procedure, your proposal would not be considered a formal motion and would likely not be open for discussion or a vote, if its incomplete and not properly introduced; you would need to rephrase your statement to include "I move that ..." to officially present your idea as a motion. Therefore, the motion was not recognized as official. The Treasurer was right to disregard the improper motion and informed the member, we are not accepting nominations from the floor.

After ballots were collected, the meeting moved to final agenda item, New Business.

- No new business was introduced.
- Ethleene adjourned the meeting at 6:31 pm.

