



The Polaris Beacon



Star Valley Estates Newsletter
May 2012

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A publication of the Star Valley Estates Home Owners Association Webpage: www.starvalleyestates.org
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Next Meeting

Thursday, May 10, 2012
6:30 pm
Ryan Airfield Conf. Room

Meeting Schedule Set for
The remainder of 2012
Please Mark your Calendar

The normal starting time of 6:30 pm may vary and will be announced prior to each meeting:

2012: May 10 July 12
 September 13 November 8

Election Results – New Board Members

The annual meeting was a success in that 53 ballots were cast and 24 homeowners were in attendance. Those numbers, however, are still disappointing since our community consists of 149 homes. Two thirds of the community remains unresponsive. The results of the election are as follows:

Candidate	Votes Received
Dan Harper	35
Ozzie Nelson	33
Nadine Williamson	22
Jill Chamberlain	1
Dick Curtin	1

The elected board members are Dan Harper, who advanced from an appointed position to an elected position, and Ozzie Nelson, who is new to this board. The new board members will serve for two years. Welcome to both newly elected board members.

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Analysis of Election Results

In any political race, it is interesting to dissect the vote count to see what can be learned regarding the feeling of the constituents. Until the current board changed the Bylaws, distribution of the voting information was not allowed. Here is the voting breakdown.

Thirty homeowners voted for Harper and Nelson. Out of these 30 ballots 27 voted for Harper and 29 voted for Nelson with four ballots cast for only one or the other of these candidates. Based on the biographies of these two candidates, these votes appear to support the current direction of the board.

Ten ballots were cast with votes only for Williamson. If cumulative voting, which was eliminated by the current board, were still acceptable, these ballots could have contained another 10 votes for Williamson. Her count would then have risen to 32, a number greater than the minimum 27 votes required for election. Those cumulative votes would still have fallen short of election since Nelson and Harper had 33 and 35 votes, respectively. It is assumed that these 10 ballots were cast by homeowners who still support the recalled board.

Twelve homeowners voted for a change.

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Eight voted to retain Harper and add Williamson. Four voted for Williamson and Nelson, thereby yielding a board with two new board members.

The voting homeowners can, therefore, be divided into the above three groups. That leaves the largest group of all –2/3rd of the community, 96 homeowners, that appears to be totally disinterested. If anyone has any ideas as to how to get the largest segment of our community interested in HOA governance, please send your ideas to the Polaris Beacon.

Role of the Board of Directors

The Board of Directors of your HOA is responsible for:

- 1) Enforcing the governing documents,
- 2) Managing the community finances, and
- 3) Maintaining the “Common Areas”

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Enforcing the governing documents is divided into three tasks: 1) Periodic inspection of the properties to assess day-to-day conformance with, among other documents, the Rules and Regulations and the Design Guidelines, 2) Evaluation of proposed changes to each property submitted by homeowners to the Architectural Review Committee, and 3) Periodic evaluation of the need to modify the existing documents such as the Design Guidelines.

The community finances are handled by our management company, Cadden, with approval of the Treasurer of the HOA. The board establishes an annual budget as a guide to the utilization of funds and sets the assessment of fees. The fees have been lowered and plans are under way to return excess funds to the homeowners. The mode of determining the amount to be distributed to each homeowner was covered in detail in the February issue of the Polaris Beacon (Vol III, Issue 2), and will not be repeated here.

Maintenance of our common area has been simplified since the common area has been reduced to only one basin lot, Lot 151. The board will not authorize expenditures to repair or replace individually owned property, such as mailboxes, fences, vegetation, etc.

### Role of Cadden Management

The Management Company is hired by the Board and works for the board. Cadden Management does not control the board, but it does offer advice to the board on various issues. If a homeowner has a complaint regarding actions of either the board or a board member, those complaints should be directed to the Board of Directors and NOT to Cadden Management. If a homeowner has received direct communication from the management company such as a notice of violation or an acceptance or rejection of an architectural request, then communication should be directly with Cadden, otherwise, please communicate with the Board.

Your fees go principally to cover the administrative costs of the Management Company, and to cover costs of maintaining the Basin lot

### Legality of Refunding Monies to Homeowners.

Cadden Management informed the board that Mstr Sgt. James O. Williamson, a homeowner in Star Valley Estates, has questioned whether it is legal to return excess funds from the HOA account to homeowners. That is certainly a legitimate concern. Williamson cites ARS. 10-11301. Prohibited Distributions, and ARS 10-11302. Authorized Distributions in support of his contention that the distribution is not legal. In addition, he cites the following case:

#### **Haines v. Goldfield Property Owners Assn.**

<http://caselaw.findlaw.com/az-court-of-appeals/1047995.html>

Even though the Editor of the Polaris Beacon does not hold a law degree, he can read and interpret basic law. Arizona Revised Statute 10-11301 Prohibited Distribution [For non-profit corporations. Our HOA is a not-for-profit corporation.] states:

Except as authorized by section 10-11302, a corporation shall not make any distributions.

That sounds intimidating until one reads 10-11302, which basically says that a corporation cannot distribute more money than it will need so that the remaining funds are sufficient to cover all

current and anticipated debts and liabilities. We meet that challenge.

Now let's turn to the court case of Haines v. Goldfield Property Owners Association, which was held in the Court of Appeals of Arizona, Division 1, Department C on October 27, 2005. The case dealt with the question, "Do Arizona statutes prohibit the distribution of excess assessments to the Association members?" In this case the property association had levied an assessment of \$100/acre for the installation of electrical services. In essence, the cost of installation was less than the collected fees. The Association voted to return the excess to the membership. The Haineses claimed the distribution was illegal based on ARS 10-11301. Prohibited distributions and 10-11302. Authorized distributions (sound familiar?).

Here is the ruling from the court:  
"The superior court upheld the Association's actions. The court determined that the special assessment was to provide electrical extensions on Goldfield Ranch, this goal was attained, the Association over-assessed its members, and *Arizona statutes do not prohibit redistribution of the balance!!!!*

The superior court denied the Haineses' motion for summary judgment, granted the Association's cross-motion, and denied as moot a motion by Fountain Foothills to dismiss for lack of standing."

Another Arizona Revised Statute that may be pertinent is ARS 33-1254, which relates to Condominiums, but falls among the same articles as Planned Communities. It reads:

*33-1254. Surplus monies - Unless otherwise provided in the declaration, any surplus monies of the association remaining after payment of or provision for common expenses and any prepayment of reserves shall be paid to the unit owners in proportion to their common expense liabilities or credited to them to reduce their future common expense assessments.*

All of the above situations sound a lot like our case, and should put the issue to rest.

Our HOA collected money to cover expenses for the maintenance of Detention Basin #1 (three acres

of land) plus Detention Basin #2 and all the roadside landscaping. All this has now been reduced to only one acre and the peripheral maintenance has been allocated to Pima County. The HOA now holds in a reserve fund, money that it does not need. That money belongs to you – the homeowners, and not to the HOA.

The treasurer is working with Cadden financial representatives to arrive at an equitable distribution based on the simple formula:

$$\text{Refund} = \text{Del} + \text{RF} * (\text{HPQ}) / (\text{TPQ})$$

where:

Refund = refund amount

Del= delinquency (a negative number)

RF = amount of reserve fund to be distributed

HPQ = homeowner paid quarters

TPQ = total paid quarters for current residents

### Fence Damage Along Ironstone

#### ~REPAIRED~

Sometime around the 25<sup>th</sup> of October, 2010 a northbound car veered off the road and struck the drainage canal fence along the east side of Ironstone and destroyed more than 80 linear feet of chain link fencing. The offending party was never identified.

This fence is on county property and the board felt that Pima County was responsible for its repair.

In May of 2011, Pima County DOT denied responsibility. In November 2011, DOT reversed its stand and said that it had placed a work order in its records. That work order had lain dormant until Mr. Gene Hugelen raised it from the dead.

Mr. Hugelen of Brightwater has established a good working relationship with Carol Brichta of Pima Co. DOT. In March, 2012 Gene proactively sent photographs of the damaged fence to Ms. Brichta who forwarded them to Paul Wassmuth of the Infrastructure Management Division of Pima Co. Flood Control District. Mr. Hugelen subsequently received a letter from Wassmuth on March 21 stating that they had made a site visit and that: "The District has found public drainage infrastructure requiring maintenance. A work request has been issued to have the approximately 80' section of missing chain link fencing replaced. Maintenance is expected to be

completed within two months”

As a result of Mr. Hugelen’s persistence, the fence  
**HAS BEEN REPAIRED.**

Thank you Gene.

This further confirms that roadside maintenance along the Ironstone drainage ditch is county responsibility and not the responsibility of our HOA.

It is encouraging to see a community member take such a proactive step to help keep the neighborhood looking good.

...I have seen all the HOA boards before your board and they all did the best they could with what they had at the time. I want to commend this board for holding true to the proposed directions that this board has moved toward and for taking your actions very seriously. You have accomplished many [actions] that you set out to do. The best, of which I like, is the common sense type decisions from true mature leadership to our community of which our community was in great need. You are all to be commended for your individual contributions to the board’s goals.

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The board appreciates Mr. Anderson’s support and expression of confidence in our actions. It is nice to hear since such feelings, if held, are generally not expressed.

Local Information – Traffic Tangle on Wade

If you are one of those lucky people who has not yet retired and is still commuting to work, then you are probably aware of the early morning traffic snarl on Wade Road. The line of cars sometimes is backed up on Wade all the way to the firehouse because of difficulty in turning onto Valencia.

Gene Hugelen notified the editor of the Polaris Beacon that Carol Brichta of DOT had contacted him about a flood of complaints coming from Star Valley regarding the traffic tie-up on Wade. The problem lies in the fact that Wade Road is the only access route to Valencia for communities south of Valencia. DOT did not seem to know that there are numerous developments in Star Valley and that more people are affected than just Star Valley Estates.

The good news is that Ms. Brichta announced that temporary traffic signals will be installed at the intersection of Valencia and Wade in the next few weeks.

When the planned road construction is completed sometime in 2013, this problem should disappear.

Property Maintenance – Dead Trees

Back during the deep freeze of 2010(?) when the mercury dropped to 18 degrees, we all lost a lot of cacti. In addition, if you were unfortunate enough, as I was, to have had an Acacia Willow (acacia salicina – a native of Australia and hardy to 20F)) planted in your front yard by US Homes (or chose to plant one yourself), you probably lost the tree or had it severely damaged by the freeze. I personally had one in my front yard that was half killed. I tried trimming it to improve its appearance in the hope that it would recover, but to no avail. Finally, a few weeks ago I bit the bullet and had it removed. The cost was minimal. I will be glad to share the name of the individual who cut it down and removed it with anyone interested.

It is possible that your Acacia Willow will eventually recover, but you have now learned that it can be damaged again in another deep freeze. Consider removing any dead trees from your property. Their removal will improve your landscaping.

If you want to replace any dead trees or cacti, make sure to choose a variety that can take a deep freeze. The era of climate change is upon us.

Kudos to the Board

Generally all the board hears is criticism and attempts to discredit its efforts. A ray of sunshine entered the board’s gloomy chambers when it received a two-page letter from Roy Anderson of Brightwater Way filled with praise. Here is an excerpt from the letter- reprinted with Mr. Anderson’s permission.

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To the current board and the  
two new incoming board members

**Star Valley Estates  
1870 W. Prince Road, Suite 47  
Tucson, AZ 85705**



Star Valley Estates Newsletter

May, 2012

**Notice:Next Board Meeting**

Thursday, May 10; 6:30 PM

Conference Room  
Tucson Airport Authority Building  
Ryan Field  
Near intersection of Valencia and Ajo

**Input from Homeowners is requested.**

Homeowners – This is your Newsletter.

Your input is requested. If you have an item of interest to the community, please send it to the editor either in WORD format, or just as email text to the email address shown in the title header.

Let your feelings and input be heard.

Please report any evidence of criminal activity. Details will be kept confidential.

**This is YOUR NEWSLETTER**

Looking forward to hearing from each of you.

The Editor