

# WILDWOOD HIGHLANDER

## SUMMER 2008

The *Wildwood Highlander* is a periodic newsletter providing information to property owners in Wildwood Highlands, near Datil, NM. Primary distribution is via email. Hard copy is mailed to owners without email capability. Published at least semiannually in Datil, NM by the Wildwood Highlands Landowners' Association, POB 87, Datil, NM 87821-0087. For further information contact any member of the WHLA Board of Directors (BoD), listed below. Also consult the WHLA website at [www.wildwoodhighlands.org](http://www.wildwoodhighlands.org)

### **RESULTS, 2008 GENERAL MEETING**

The 2008 WHLA general meeting was held at the Datil VFD Firehouse on 17 May. Approximately 24 members attended, and 23 absentee ballots were cast. A potluck lunch was held after closure. The minutes are posted below and, as are all meeting minutes, also on the website.

### MINUTES GENERAL MEETING, 17 MAY 2008 WILDWOOD HIGHLANDS LANDOWNERS ASSOCIATION POB 87, DATIL, NM 87821-0087

The 2008 general meeting of the Wildwood Highlands Landowners' Association (WHLA) was held at the Datil, NM VFD Firehouse on 17 May 2008. WHLA Board of Directors (BoD) President Thomas A. Cook called the meeting to order at approximately 10:11 AM MDT. The balance of the BoD (Alma McCarty, Treasurer, Terri Brown, Vice-President, John Kell, Member-at-Large, and John Schaefer, Secretary) was present, as were approximately 22 other Association members and guests. The meeting agenda, which had been included in the meeting notice mailed in April, is attached. We conducted business as follows:

- President Cook introduced guest Roger Daigger, President of the Wildwood Landowners' Association, along with his introduction of the BoD members.
- The secretary read the informal minutes of the 2007 general meeting. Approval/acceptance was not sought due to their informal nature.
- The treasurer presented the 2007 financial report along with an interim 2008 report. These were approved.
- Terri Brown presented the annual roads report as prepared by ex-BoD member David Brown. Several members, principally ex-BoD members, criticized the Board's efforts at maintenance. After substantial discussion the report was approved as presented. John Kell suggested that the road report be placed on the Association's web site; this will be accomplished.
- President Cook presented his annual report. Highlights/lowlights of the year were
  - – Roads maintenance

- – The defunct Community Well
  - – The updating and revision of the Association Bylaws
  - – The San Augustine Plains “water steal” issue (some 470 formal protests have been filed to the applicant’s request to drill 37, 20” diameter wells East of Datil and remove 54,000 acre-feet of water annually). Member B. King advised us that one of our landowners, Ms. J. Trujillo, is a water rights expert (the WHLA is one of the protestors).
  - – The issue of the existing 4 easements affecting 8 of our property owners
  - – The Datil VFD is in the process of emplacing a 10,000 gallon water tank at the site of our defunct Community Well. Its purpose is restricted to firefighting. This point led to a lengthy discussion of the Community Well and its future (the forecast remains bleak).
- As “New Business” President Cook initiated a presentation outlining the history and apparent purpose of the property easements mentioned above, and the current BoD’s position with respect to same. The presentation generated a lengthy and argumentative discussion between the BoD and several of the involved landowners.. After 42 minutes without progress the subject was closed.
  - Continuing under New Business, President Cook presented the proposed 2008 WHLA budget.
  - Opening the floor to member’s concerns,
    - Ex-BoD member J. Laude criticized the Board’s decision to lower the historic interest rate on late assessment payments from 10% per month to 2% per month.
    - Member C. Henn criticized the BoD’s process in revising the Association Bylaws last fall. It was clear that there had been communications problems with Mr. Henn.

At 11:29 AM balloting began. There were 2 vacancies on the BoD, and 2 candidates. The only other issue was a BoD-initiated Bylaws amendment to increase the annual assessment by \$10\*. The amendment, which required a 2/3’s majority to pass, failed by a vote\*\* of 27 for and 17 against. The 2 elected BoD members are:

John Kell, succeeding terms, and  
Fred Shepherd.

Following President Cook’s thanks to outgoing treasurer Alma McCarty, the meeting was adjourned at approximately 12:10 PM.

Respectfully submitted this 1 June 2008, John F. Schaefer, Secretary 2008-2009. (s)

---

\* The BoD is empowered to change the assessment by an amount less than or equal to the annual “Cost of Living” index. While that index was under 10% over the past year, the cost of fuels (a large, perhaps the largest, component of our maintenance costs) has recently risen well in excess of the overall index.

\*\* 47 ballots were received. On the proposed amendment portion 3 ballots were rejected as spoiled, so 30 yeas were required for approval.

1 attachment Meeting Agenda

## **UPDATE ON SAN AUGUSTINE PLAINS WATER STEAL**

For the benefit of those who missed it in the previous issue, last October an Italian company applied for a permit to drill 37, 2000 foot deep, 20" diameter wells in an area just east of Datil, for the purpose of removing from the San Augustine Basin 54,000 acre-feet annually\* for the foreseeable future. Some 480 affected parties (a record number), including the WHLA, have filed protests against allowing this travesty.

There have been a few noteworthy developments since the last newsletter. First, efforts are underway to form a protest organization, capable of fighting the application in a unified approach. We have been offered competent counsel for expenses only. Secondly, we recently learned that, as speculated by many experts, the applicant has submitted a modified proposal, which opens a window in which new protests may be filed. So far as is known, protestors must submit their protest within 3 weeks of the final publication of the revised application: we believe the first such publication will occur next week, and the 3<sup>rd</sup> and final publication would be 3 weeks after the first. Please keep checking the WHLA website for further information, and if not already a protestor, please consider becoming one. Some detailed information regarding the format and content of an acceptable protest can be found at [www.catroncounty.net/water](http://www.catroncounty.net/water).

---

\* As comparison: a decade ago annual withdrawal from underground sources in all of Catron county was 2,494 acre feet!

## **EASEMENTS 101**

The BoD continues to try to resolve the issue of emergency egress (for WHLA folk) and/or access (for Sugarloaf folk) when needed. Noting that many members and others are confused about the existence, status, or purpose of the easements affecting 8 of our landowners on the west and northwest boundaries, President Cook has prepared the material below to give all a common understanding.

There are four easements that burden eight lots within Wildwood Highlands. They are labeled "50' Wide Access & Utility Easement" on the plat of Wildwood Highlands - Phase II filed with the Catron County Clerk on April 29, 1997. "An easement may be created by a recorded and acknowledged plat or subdivision that shows the existence of the easement" (*Land Surveying Law* by John E. Keen, PLS). The easements were created when the subdivision plat was recorded prior to the sale of any lots and "run with the land". That is, subsequent owners of the burdened properties are legally bound to abide by the restrictions imposed at the time the easement was created. The easements connect rights-of-way in Wildwood Highlands with rights-of-way in the Sugarloaf Mountain subdivision (although the Sugarloaf subdivision did not exist at the time the Wildwood Highlands plat was recorded).

The following was taken directly from the Sugarloaf Mountain Subdivision plat recorded in the Catron County Plat Records in File B, Page 196:

“Plat Restrictions – 3(d) An easement in favor of Wildwood Landowners’ Association, Inc. and Wildwood Highlands Landowners’ Association, Inc., the members of the two aforementioned Associations and invitees and licensees of the aforementioned members, to use the road rights-of-way within the Subdivision as a means of emergency access to or from Wildwood Subdivision and Wildwood Highlands Subdivision.”

Given that the easements exist (by virtue of the subdivision plat), there are three questions that need answering:

1. To what land is the easement appurtenant?
2. Under what circumstances may the dominant tenant (owner of the appurtenant land) use the easement?
3. Who owns the dominant tenement (the land that benefits from the easement)?

It is the position of the Board of Directors that the land to which the easements are appurtenant is the right-of-way in Wildwood Highlands that adjoins the easements. Since the Landowners’ Association owns the rights-of-way, the Association is the beneficiary of the easement. The answer to question 2 is clearly that the Association (and therefore its members and guests) may use the easements only for emergency purposes.

## **ROADS REPORT**

Ex Board member David Brown has prepared the following summary of our roads maintenance program over the past year:

### **Wildwood Highlands Annual Road Report 2007-2008**

The main goal for this budget year was improvement as the priority over maintenance.

The worst stretch of road for us all is the hill on Agua Fria through Wildwood, Grading does nothing to keep it from wash boarding within days of improvement. We determined that there was too much loose gravel on this stretch and brought in two loads of crusher fines to mix in the gravel and bind it. The result was gratifying and this stretch will use far fewer resources in the future.

Several areas besides Agua Fria are in need of gravel and we decided to concentrate on the ones with the most habitations, Western View and Rock Spring Circle. Starting at where the roads intersect Agua Fria and working toward the end we had spread 3 belly dumps on Western View and 2 on Rock spring Circle. Hopefully, future boards will continue this. One additional Belly Dump was spread on Agua Fria just past the O’Gorman’s with little effect, this area needs more gravel in the future.

Water is the enemy of dirt roads and controlling the flow of water, diverting its path, will gain us much more resilience. With this in mind we installed 5 culverts at points throughout the neighborhood, which are perennial bog areas. As these settle we will see improved sustainability in our roads but many more are needed. Initially we had five miles of roads graded, some of which had had no attention in 5 years. In a second round of grading Agua Fria was given special attention, with all the bar ditches cleaned out and gravel pulled back onto the road. Although this action stirred up some questions, we came through to spring with Agua Fria in the best condition it has ever been in at springtime. We paid \$7596.72 for all of this work and with the price of fuel rising it is just going to get more expensive every year. Hoarding our money will cost us in the long run, more gravel and more culverts are what is needed and soon.

### **WHLA ARCHIVIST (REPEAT)**

The BoD continues to seek a person to serve as WHLA archivist. President Tom Cook is the search leader: Contact Tom at 575-772-5350 or [tomcook\(at\)gilanet.com](mailto:tomcook(at)gilanet.com).

### **BOARD OF DIRECTORS MEETINGS**

The new WHLA BoD has met twice since the general meeting.. All minutes are posted on the website. Our next meeting is scheduled for Sunday 24 August, 4 PM, Cook (Lot #7, or 7 Rock Spring Circle) garage. All meetings are open to WHLA members.

### **POLICY ON MEMBER COMMUNICATIONS (REPEAT)**

The BoD asks your cooperation in providing us an email address for newsletters and other necessary or useful communications. One mailing by USPS to all will expend over 70% of one lot owner's annual dues ... we can all think of better ways to spend that money! To those who received this newsletter in the USPS mail: Please send your email address to the secretary/newsletter editor. It's John Schaefer at [jfs\(at\)gilanet.com](mailto:jfs(at)gilanet.com) . Also, a short summary of our policy is:

- If it can go by email and we have your email address that's the way it will go.
- Otherwise, it will go by USPS, but we'll continually bug you for an email address.
- We hope to eventually have contact details for all members on the web site. You can opt out by letting the secretary know.

### **BoD MEMBERS & CONTACT INFORMATION**

PRESIDENT:	Tom Cook	575-772-5350	<a href="mailto:tomcook(at)gilanet.com">tomcook(at)gilanet.com</a>
VICE-PRESIDENT:	Fred Shepherd	575-772-5603	<a href="mailto:shepherd(at)gilanet.com">shepherd(at)gilanet.com</a>
TREASURER:	Terri Brown	575-772-5646	<a href="mailto:terri.sunflower(at)gmail.com">terri.sunflower(at)gmail.com</a>
SECRETARY:	John Schaefer	575-772-5776	<a href="mailto:jfs(at)gilanet.com">jfs(at)gilanet.com</a>
AT-LARGE:	John Kell	575-772-5929	<a href="mailto:johnkell(at)shaw.ca">johnkell(at)shaw.ca</a>