

# Hidden Creek HOA Board Meeting Minutes

Thursday, September 17, 2020 3:00 MT

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**I. Call to Order** The meeting was called to order at 3:15 PM.

## **II. Establishment of Quorum**

### Board Members:

Carri Moentmann

Dan Mitrovich

Michael Bradley

Leanne Miller (joined around 3:27 PM)

Guy Rawson (absent)

### ASHM:

Carissa Nosack

Garrick Malin

Mike Williams

### Homeowners:

David Knecht

Lisa Graveline

Devon & Melissa Patterson

Lili Holland

Mackenzie & Eric Jellum

Gretchen Lescher

Terri Jelinek

Chris Stoll

Vanya Wilkinson

Kristi Wilson

Kevin Moentmann

## **III. August 2020 Meeting Minutes**

Michael Bradley motioned to approve the minutes, noting one typo that says “it is” when he was speaking of the city council meeting, requesting it be cleaned up, otherwise motioning to approve the August 2020 meeting minutes. The motion carried with all in favor.

*Addition to agenda:* Carri Moentmann requested to add the topic of “Election” to the Governance section of the meeting. Dan and Michael agreed. Carissa added the topic to Governance.

## **IV. Financials**

Carissa noted that due to the timing of the meeting in the month, they will not be complete, and this topic was bypassed.

## **V. Management/Maintenance Report**

### • Remodel/Modification Report:

Mike Williams noted there is one completed (11B). Carissa called the board’s attention to two units that received administrative approval from ASHM: 11C for replacing flooring and 37B to replace a screen door that met the standards. MikeW shared he had one owner request inspection, which he will do after the meeting. Once this unit has been inspected and signed off on, it will be added to the list. MikeW noted how busy it has been between the windstorm, ongoing construction, and today’s gas leak.

- Maintenance/Management/MRWD Report:

MikeW said that JRock Construction has been running into several problems, as everyone is probably aware, between: hitting irrigation lines, culinary lines, power lines, and more recently- gas lines. MikeW spoke with the individual running the backhoe and asked if Blue Stakes were there. The backhoe operator indicated they were there Monday. There are fresh paint lines around, but there are no fresh paint lines down where he was cutting (by the shed). MikeW will follow up with Blue Stakes and find out why they are not being comprehensive in their search/discovery of existing lines.

MikeW reiterated JRock has been running into a lot of problems with this aspect of the project, which has put them behind. JRock is behind schedule due to the difficulties coming down through the road and across the parking lot, along with the start delays due to debates of asphalt coordination. The project had to be pushed back late into the year. MikeW walked the project with Morgan Asphalt (HOA's asphalt vendor) and JRock yesterday, in an effort to strategize with the remaining seasonal temperatures. Morgan Asphalt still feels like they could get some of the work done before the temperatures drop. MikeW will share this information from Morgan Asphalt with the board; he received it via email as he sat down for this meeting. MikeW noted he will forward it to the Board after this meeting.

Michael Bradley questioned where MRW and MRW's project manager is in all of this. Michael Bradley reiterated that JRock is MRW's vendor and ASHM has taken on a fair amount in managing this project. MikeW indicated that he has been working directly with the project manager, JRock (Michael Clay); other than informing the MRW project manager of what's happening. MikeW hasn't had much correspondence with MRW, other than keeping them up to date with what is going on. As far as overseeing the project goes, MikeW isn't aware of anything other than what he has been coordinating and ensuring everything is happening on the HOA's end.

Michael Bradley requested a meeting amongst the board, as there have been timelines unmet, disruptions to the community, and risks everywhere. Michael Bradley reiterated that JRock is a vendor of MRW, not Hidden Creek. Carissa indicated that ASHM has opened up the communication with MRW, whose project manager (Sam Grenlie) has been out of town this week, and will return next week. Carissa indicated MRW has been informed by ASHM that the project will be running into problems next week and this needs discussion; both Scott Morrison and Sam Grenlie are aware of this correspondence sent by Carissa.

Leanne pointed out a few things she's noticed while walking the site: in addition to exceeding the time limit in the original easement, they've exceed the boundaries that the HOA has allowed them to use (some with permission, but others without permission); they are using a lot more of the community area; they are damaging the asphalt a lot more than they said they were going to (large chunks missing on either side of the trench); cracks and potholes that have formed. Leanne doesn't see any evidence of any

compaction equipment onsite, so Leanne is unsure how they are compacting that material that goes back into the trench in all areas; Leanne noted that in some areas they have used a CLSM (a concrete low-strength material) which self compacts, but in other areas, they only have sand. If they don't get this compacted before the new asphalt, we will end up with a big divot in the trench area, as it will compact with time. MikeW addressed some of these concerns, noting that he walked the site yesterday with Morgan Asphalt and JRock Construction, examining the unevenness and thickness inconsistencies of the asphalt (some areas are four inches thick, and other areas only 1.5 inches). Ty, Project Manager for Morgan Asphalt indicated it may be better in some areas to mill the sides, and lay over it, as there isn't enough to be able to mill. Due to the thickness (lack thereof), and how cracked/weathered it is, this is contributing to the reasons it is breaking up in more areas than anticipated. MikeW noted they did score it in an effort to make it as clean as possible, but the fragile nature and existing breaks in the asphalt are creating breaks in the asphalt cuts that weren't originally anticipated.

Leanne noted that this isn't our problem, and it's something the contractors need to bring back to original condition. She also noted the grass areas they've damaged by running their equipment over it. They've also taken up a lot more space in the way of parking spots; Leanne shared that she's received a lot of comments from unhappy owners about coming home at night, and not having a place to park. MikeW shared that his team has been working to have as many spots open as possible, and that they've only had to tow one car due to construction (which was today). The car was towed onsite and booted. MikeW agreed with Leanne that there has been more community impact than anticipated.

Leanne went on to share that the association has been without water for three days in a row now. MikeW noted it was three culinary lines, one power line, and now one gas line. MikeW also noted there were two irrigation line repairs that they capped and there were still repairs in process in the area. The line that goes over the walkway at the top of the pond still needs covering. Leanne noted the line at the walkway is very shallow (at the pond where the overflow line is) and needs to be buried much deeper, and that their existing outlet pipe (if left the way it is) will result in erosion issues every time water is discharged out of it because of the drop between where the pipe is and the water/ground-level (the pipe is much higher than the water surface/ground). Unless they place some riprap, or another type of erosion protection, there will be problems with erosion.

Carissa stated that the concerns of Leanne Miller and Michael Bradley would be included in the meeting minutes and a separate meeting will be set-up with JRock, MRW, board members, and ASHM to address these concerns. The board members/ASHM will use the concerns expressed in the minutes, and additional items, to create a bullet-list of concerns to hold the contractors accountable.

MikeW noted JRock had put in one of the lines for the electrical conduit and that the other one is ready to go in. MikeW has spoken with JRock several times about pond dredging; JRock doesn't want to dredge until their lines are complete. MikeW said he will not let them leave that area until they have fulfilled their commitments.

Michael Bradley expressed concern that they would back out of milling and asphaltting due to snow falling. Mike Williams re-assured they aren't trying to back out; they are concerned about the temperatures dropping, making it unfeasible to continue throughout the community.

MikeW shared there is a plan with Morgan Asphalt to get started. The next step would be completing the patching/base work and start milling and paving on Aspen, Willow Creek, and areas that aren't affected by what JRock is doing.

MikeW confirmed there wouldn't be any reduction of costs if Morgan had to come back in the spring to finish. MikeW is working with Morgan on these details because of contingencies that are happening. Ty sent an email that outlines this and MikeW will share it, along with more details, with the board.

The board and ASHM will put together a checklist of items of concern to share with JRock and MRW in a meeting. Carri suggested the checklist include photos and videos to properly document as the project and work site changes every day. Leanne has taken photos, and MikeW has documented things along the way.

Dan Mitrovich asked MikeW if he is updating community drawings to reflect any variances where things are buried underground (where they hit the gas line and electrical line). Dan clarified that (if they hit a line, was that in the community's drawings?) MikeW indicated Blue Stakes should have been on top of them, including those they have hit. MikeW said that the gas line that was hit today was not marked.

JRock was digging with shovels on the electric line until they got to a large boulder they couldn't move; they used a backhoe and the rock arced and hit the bucket. The contractor employee was fine, but it blew the power out.

Dan confirmed with MikeW that we will be updating the drawings to reflect what is being discovered while digging up the ground.

#### • **Violations/Fines Report**

Carissa stated three homeowners have received warnings for storage outside their units and these have been resolved.

Garrick will share the violations/fines report in his update.

Leanne asked if a separate executive session needed to be held to discuss outstanding violations/fines. There is one that has been with the attorneys for quite sometime and Leanne requested an update to the board. Carissa will work on this, put out an inquiry, and email the board about the fines and violations to determine if an executive session is needed.

## VI. Governance

- **Ratify Email Actions: None**

- **ARC**

27C (moving a W&D and adding a half bath where the W&D previously existed): There was an amendment to an original application. Most of the ARC members were in attendance. Homeowner will be tying into additional plumbing (page 16 & 17 of the board packet).

**The ARC unanimously recommended approval.**

Leanne stated the board should be apprised of the new plumbing fixtures; a new showerhead and drain are being added.

If approved by the board, Leanne stated the approval letter should include language informing the homeowner they are subject to a possible usage fee. Lisa Graveline brought up, and several times in the past, that she doesn't think it's legal to assess usage fees, and was curious if an attorney was asked to weigh in on this. Leanne replied that the board has been dealing with more important issues and hadn't had time to discuss usage fees with the attorney.

Leanne clarified that they are applying for an *additional* shower, not a new shower. Carissa confirmed this and stated that there are currently two full bathrooms and a half bathroom; the homeowner is looking to turn the half bathroom into a three-quarter bathroom with a standing shower.

The contractor provided all the drawings and answered all questions to the ARC.

**Carri M motioned to approve the amended application per the ARC's recommendation, subject to an attorney's opinion regarding Leanne's remarks about usage; Michael Bradley seconded the motion.**

*The 27C homeowner, Kristi Wilson, asked a whether or not the usage fee has been imposed or approval conditioned in the past (i.e. when 32A added a half bathroom in the same closet). Leanne stated that it has been stipulated that a fee will possibly be incurred for every unit that has added additional plumbing fixtures/bathrooms; the board hasn't come to any conclusion on how to address this. With the existing usage based on a certain number of bathrooms, adding additional bedrooms/bathrooms impacts the community's usage as a whole. There should be a way the HOA can cover these increased costs, so the balance between the various unit sizes is maintained, rather than it becoming skewed.*

*Leanne went into detail about how units have expanded (both bedrooms and bathrooms) and the HOA looks to re-establish equity to ensure expanded units are paying their fair share (both water usage, amenities, etc.)*

*Carri clarified the HOA would need legal guidance on usage fees, increased ownership percentages, and HOA dues before the board could implement anything.*

**The motion carried unanimously with all board members in favor.**

**• Legal: Summit County Council**

Michael Bradley: With the collaborative approach of many homeowners on the call, including Brad Graveline's contributions; the association was successful to some degree. It appears the County Council will consider language to defer to the SPA rules and regulations before considering an application for NMU1 designation. Michael felt a strong position was made that NMU1 would create unnecessary pressure on the community, raise confusion, difficulty for management, and give developers the perception they could do more than the current restrictions of SPA. It's under deliberation yet again. The association has asked that the County Council either remove the possibility of an NMU1 designation for those areas controlled by SPA, or in the alternative including language that SPA would always control until SPA expires or is vacated.

Michael explained that the Summit County Planning has said they need to put more "rigor" into what they're doing. The association will wait to know when the next meeting will occur. **We want to continue to encourage the participation of homeowners, as the planning commission will be looking at how many people are attending and any owner representation does in fact help.** Carri indicated she believes this is now closed to public hearing; however, Michael's impression was County Council would revisit public hearing on the NMU1 matter.

**• Parking Plan for Asphalt Paving Project**

Carissa noted that we have talked a bit about this project and that what is included on page 18 of the board packet is a site use agreement from Vail to utilize part of the parking lot at the Cabriole because we will need homeowners to park offsite during this time. The board can review this, but based off of what MikeW reported, it sounds like if we get a portion of the asphalt done this year (likely to be the two cul-de-sacs in the townhome area), the part moved off to next year would be the Georgetown area. Carissa noted we would not need the same amount of parking spots, but it is unclear how many parking spots would be available.

Carissa will update communication with Joshua from Vail, and let him know we will get back to him. Carissa solicited questions from the board regarding what management was trying to do. Carissa noted that MikeW has been looking for an alternate place for people to park and noted everything is up in the air right now. Michael Bradley asked MikeW if this is secondary to the vendors being behind. MikeW noted that his intention was to find out what options are available and what they may cost (if the association is interested). He reiterated his intention was to explore what options are available and establish contact with Vail for alternative parking options, just in case.

Michael Bradley advised that our discussions would need to be how they intend to stage it; the implications of needing to stage it differently as a result of the problems. MikeW reiterated he isn't certain we will need it, he just wanted to explore the options to be ahead of the potential issues.

Carri questioned that if the two Townhome areas were being completed, wouldn't a significant amount of parking need to be directed to the Georgetown area. She asked if the Georgetown's could support that level of additional parking? MikeW stated that, after his conversations with Morgan, not everyone would have to go up there and stay there. There are still options below, including driveways and the ability to drive on the pavement once it is milled and even shortly after asphalt is over-layed. The impact on townhome owners will be a half-day here and there (it won't be a week).

Carissa noted that the cost of this is related to the association expanding the scope of the work for the asphalt (piggybacking on the MRW project). Further explaining that if the association ended up having to get any parking during the Georgetown area asphalt completion, this would be on the HOA. She reiterated that this is just an advanced notice of what the option would be regarding cost per parking spot, if this option is needed.

Leanne went on to say that one of her questions is if we could get a more detailed schedule from the contractor, as to how they plan to stage their work; she doesn't see any problem with vehicles being away from their homes overnight, as long as they are gone first thing in the morning. MikeW confirmed he has further logistical details (in the email he received just before this meeting) that he will share with the board.

Leanne said the project will get more complicated in the Georgetown area, but there is a way that people can stage their vehicles (between using the existing parking as well as being able to come back at night). MikeW agreed, but again stated the association needed an alternate plan (why he worked with Vail for negotiations to use the Cabriolet lot).

Carissa shared that any further discussion is premature, and these conversations will be part of the email that Mike sends out next week.

Michael Bradley asked when do we need to get information back to Vail regarding needed alternative parking (open-ended, or deadline?) Carissa clarified it is open-ended and we just need to clarify details regarding number of spots needed, and when. Carissa will communicate with Vail that the project has been delayed, we probably will need less spots, and we will communication with them if/when we need more.

#### • **J2- Building Envelope Study Report**

J2 issued a **very** preliminary report for purposes of creating talking points for this meeting. Delvecchio ("Del") Gray and Rhett Stone from J2 were available on the video call to answer board questions and to explain J2's preliminary report.

Del explained J2's preliminary report touches on some of the issues they are seeing in some of the units (roofs and attics); J2 is still working on resolutions/solutions. He noted there are a lot of issues going on that J2 hasn't touched upon in the preliminary report. A more comprehensive report is forthcoming.

Generally speaking: attic ventilation has been noted as an issue- whether there is none, solely exhausts and no intake, or other cases where the exhaust is drawing air from units below up in to the cavity space of the attic.

The insulation of units is a mixed bag; some units have original fiberglass insulation inside of plastic (batt insulation) between the roof joists and six inches of blown cellulose insulation, others have blown in fiberglass insulation; it varies on a unit-to-unit basis. For those attics accessed by J2, quite a few units have converted attic spaces to living spaces (one in particular 27B, had a ladder in the closet; J2 noted if they hadn't opened the closet, no one would've been known that a room even existed in the attic). Drywall damage and ceiling deterioration from condensation were noted in this hidden attic playroom. J2 reiterated that condensation issues (improper ventilation) were occurring up there and the crew was caught off-guard.

J2 stated that the area where improper ventilation exists there is premature aging of shingles and associated UV damage due to the fact there is no ventilation under the shingles.

J2 noted there are some areas that are aging much faster than they should. There are some units/buildings that were re-roofed (some look like they were done within the last year), others appeared to be aged and at the end of their service life. Across the street from Building 38, it appears the building (#31) was re-roofed and had vented nail-base insulation and ridge ventilation added.

Note - Building 31 was not one of the buildings included in the J2 SOW and was only observed from across the street. Del noted that the shingle roof recommendations would be on a building-by-building recommendation as the buildings are all a little bit different.

J2 shared that the garage roofs are all (what appears to be) a TPO; there were no markings on the membrane. The installation is not up to par; a lot of T-patches were missing, the membrane is very thin (45 mm, instead of 60 mm) not something J2 would normally recommend, vegetation was found, fasteners holding the under-laying insulation have started to wear through the membrane, the flashings are loose and not fully adhered to the wall. The detailing presents water intrusion possibilities. J2 recommends replacement of the TPO roofs on the garages; at this time, they don't have a recommendation for a solution. J2 will put together a recommendation in the full report.

J2 noticed particular damage on Building 30. Del asked if maintenance was attempting to clear ice dams, as strike marks from a tool or hammer were noted. He reminded that if these shingles are hit with a tool or hammer during winter, the shingles would shatter and

cause leaks. He advised the maintenance staff to avoid hitting these ice dams in the winter in an effort to save us from damage/inadvertently causing water leakage. Del noted the heat tape should be working (needs to look at heat tape specs), but if the ice is overwhelming the heat tape and gutter, J2 may recommend removal of the gutters (with the exception of over areas of walkways and entrances). J2 will have to check the specs of the existing heat tape; he also noted the “k style” residential gutter is too small for the location/situations onsite.

Unit 11A: J2 pushed the access panel and fiberglass vent insulation back and used a flashlight to look at the ceiling/underside of the roof deck. Discoloration, suspected microbial growth, and a musty smell were noted. It is believed this is due to lack of ventilation; there was no exhaust mechanism in place. It appears that conditioned air from the unit was gathered in the space and the growth of mold is beginning. J2 noted that various units (similar to these) also presented the smell of mold along with water-damaged and “soft areas” drywalls and ceilings. Del clarified nothing was opened up (as far as destructive testing in these areas), noting if something hazardous was opened up, there would have been no way to close it.

J2 requested a return to property with a “bore scope”, which would create a small opening in order to safely view the conditions of the enclosed spaces (i.e. something growing in there, or other damage). J2 noted particular buildings of concern: Buildings 11 and 17.

J2 observed there are a number of exterior siding details and products that are damaged throughout the community. There are areas of fiber-cement siding and trim-boards that were noted as having a lot of water damage (mostly around the middle of the buildings - “belly band area”). Additionally, windows appeared to be taking on water, or do not have proper flashings at the top (with water damage coming from the top). Del also noted some windows with fire damage as a result of people placing BBQs too close to the exteriors (Unit 27C specifically).

**J2 recommended the rear personal deck of Building 5 be restricted from access and noted this is a life-safety issue, due to the instability of the structure underneath.**

*Del stated he wasn't comfortable walking under the deck, let alone standing on top of the deck.*

**J2 also noted the personal decks of Buildings 1 and 11 require further inspections by a structural engineer.**

Michael Bradley asked if J2's intent was to give a global recommendation based on what was identified, and also give specific recommendations based on units walked and more thoroughly researched. It was confirmed that the next report will be broken down by address (rather than building) and will include defects within each unit and resolutions for each unit specifically. At that point, general recommendations will be made; including what can be done for the community itself. Del anticipates additional units (other than those in discussed and in the preliminary report) will have issues to report on/provide

recommendations, but believes J2 has seen for the most part the “design defects” in the community. Each unit inspected will be addressed in depth, along with solutions. Del noted that solutions would be a bit difficult as each unit is a bit different (different renovations, different building, different units). Michael Bradley thanked J2 for their thorough review and noted the challenges the board has faced with the variations.

The board asked the following questions:

**There has always been a struggle with removing ice dams in the winter; J2 noted it wasn't a good idea to chop ice, but questioned how it is recommended ice dams are removed.**

J2/Del was under the assumption that all units have heat tape. The HOA corrected him that this isn't necessarily true; quite a few do, but not all of them. Leanne noted that even with heat tape, there are areas experiencing ice dams and associated damage. Del again stated that someone hitting these ice dams on frozen shingles with a hammer (or other tool) would only result in a shattered shingle, and subsequent leaks in the spring/summer. For example, the owner of 30B has a number of leaks (all associated with damage/leaks as a result of attempting to remove ice dams. J2 noted in the report where each strike existed, consistent with each leak. MikeW commented that there were significant ice dams throughout the community last year; the only way to avoid significant interior leaks/damage was to have a contractor come in and remove the ice dams. This past year, maintenance used snow rakes to remove the ice dams as much as possible, which has helped some, but there was still quite a bit of build-up behind the areas that were being raked. The use of snow rakes helped with heat tape efficiency, but there were still areas above what could be raked. MikeW noted premature melting in specific areas (i.e. three feet of snow next to an area with no snow next to it). MikeW questioned whether ventilating and insulation of attics would be two factors to mitigate ice dams. Del replied “yes” and the warming of attics will mitigate ice dams. The question remains if the removal of existing gutters (with the exception of walk areas) will also help reduce the existing ice dam issues.

**Are ice dam issues a result of improper installation of heat tape?**

Del noted it could be a combination of both (installation of heat tape where a gutter didn't exist, removal of the heat tape, but left the holes, and attempted removal of existing ice dams which caused damage).

**Was there an issue with the roof installation of building 27?**

The shingles appeared to be in good shape; a few details including the dormers and skylights were concerning. For example, where the skylights exist, it appears screws that lacked gaskets were used. Del stated he was surprised that the roofer didn't comment on any concerns regarding the screws used by the contractor who installed the skylight. Leanne noted that the roofs recently completed last year should still be under warranty.

She wonders if we can go back to the contractor to fix some of the recently found defects. Mike Williams states he will follow up.

Del asked if the same contractor of 27C roofed 30B? Carri noted that Building 30 was completed five years prior (2014) and Building 27 was re-roofed in 2019. Carri questions whether the HOA has been consistent with contractors or applications

Carri explains that the buildings chosen for the inspection by J2 represented (1) all of the various building designs of the community as originally configured by the developer and (2) all of these chosen buildings had been experiencing either ice dam or water leakage issues. Carri questions whether buildings roofed/insulated/ventilated with foam board and ridge vents (*As noted earlier by Del in the case of Building 31*), could be the solution as these buildings have not been experiencing ice damming/leakage? Would J2 say the best approach would have been to go with ridge-roofing, foam boarding, as these buildings are not experiencing issues?

Del says it depends; it cannot be said that this is the solution for everything. The roofs spoken of have likely four inches of insulation, with the grooves, and vents at the soffit going to the ridge. The question is whether it vents the cavity so it meets the cavity below it? Was the roof opened up and properly vented not leaving any cavities (small or otherwise) unvented?

Carri noted that during the walk-around with Del/J2, it was discussed that this type of roofing has built-in ventilation underneath it. Del confirmed it is an insulated nail-based deck. Explaining if you were to remove all shingles, you would have this deck, add a board with 2-4 inches of insulation. Channels are cut into this board via grooves (to allow air to pass through). This board would be aligned with, and screwed to the existing roof to allow ventilation of the roof and allow air to come out at the top. New shingles would then be placed over this nail-based, insulated deck.

Carri asked if a shingle roof was simply replaced (without additional ventilation or insulation on a building with both original cathedral ceilings and improved attic space (a firewall and added insulation), would the building/unit need to be treated differently based on the lack of insulation in the cathedral area? What guidance would be given to remodels completed per code requiring a firewall and attic insulation?

Del stated that there are two different approaches and it would depend on the situation of the attic space, in terms of insulation and ventilation. One option is to put another shingle roof, but it is advised to remove the sheathing and fill the cavities with insulation within the cathedral ceilings. Also, it is recommended the attic space be vent-ridged and the soffits filled with a ventilation system, such as the vented nail base (building 31) and vent the cavity and attic over the top.

Michael B asked about the longevity of the nail-based, foam board with channels. Del indicated it would last just as long as the deck underneath it; stating it's only as protected as the roof you put on top of it. The shingles will weather and damage first as a result of the elements over time. Once the deck is installed, it is part of the building and will only be damaged as a result of damaged shingles.

Leanne asked if owners should complete an evaluation/study when they are turning an

attic into living space, before the board allows a conversion to ensure they aren't impacting the building as a whole.

J2 replied the association should definitely be aware of owners doing anything of this nature. Additionally, most of these buildings were built in the 70s and designed to breathe a certain way. If this is being changed, an evaluation/calculation needs to be completed to determine how the changes will affect the breathability. The roof still needs to be (a) ventilated or (b) fully-insulated so the area can still breathe. Leanne noted she did not believe this consideration was given in the past even to the remodels of units that received approval by the HOA and believes it should be done moving forward to given this information and knowledge to avoid making matters worse.

Del noted a limited amount of cross bracing that ties the structure together; he will be doing some code research with structural engineers to determine what potentially needs to be done. Carissa asked if cross-bracing concerns related to the attics in the Townhomes, or also the structural beams of the Georgetown's (i.e. building 20), where softness in the sheetrock was noted. Del clarified he was referring to the attic spaces of the Townhomes specifically. In the Georgetown's (i.e. building 20), a camera would need to be placed to identify the actual issue.

Del shared that in two of the units, 30A and 37C there was some exposed wiring. 30A was tied to a bathroom vent and not as bad. 37C is tied to the air conditioning that was installed in the attic space; it appeared that whoever wired it left the wiring open (there is also fiberglass insulation in the attic creating a fire-hazard). 37C is also venting a bathroom vent directly into the attic space making the issue even more severe.

Carri noted that when the renovation in her unit (30B), a structural engineer was involved and an additional support beam was placed in the attic during expansion. She can try to find the report (which was submitted to the HOA and Summit County) if J2 was interested for reference. Carri also noted that the J2 report provided has 30A and 30B switched on some of the pictures and comments in the report). Del stated he would double-check the photos and unit #s for J2's final report.

Leanne asked when J2 expects the remainder of the report to be available. Del stated, the hope is to have something to Carissa by the end of next week (Friday, 9/25).

Del inquired, "how tied everyone is to having the dormers on each building"? Carri commented that the "dormers" were only cosmetic architectural features. Carissa explained that in the Georgetown area, this is an aesthetic item on the top of the roof, and in the Townhomes, it is tied into the vertical pillars that bump out (some homeowners have removed these and added updated windows; some still exist). J2 noted the microbial matter was found in the areas of the dormers. Del's question is whether possibly the dormers could simply be removed to eliminate the problematic roof penetration. Leanne noted only the two-story Georgetown's in her area have these and that only a few buildings, scattered throughout the community, have them. Del remarked that these aesthetic features could be made flat.

Del asked about unusual ventilation protrusions noticed throughout the community. Leanne stated these were for furnaces and hot water heaters.

Del also requested confirmation that the board would like to return to shingles on the steep slopes, and TPO as-needed on the low slopes. The idea of a metal roof was discussed (which would have a 50-year lifespan, but it would be more expensive, and much louder, i.e. when it rains). Dan M. mentioned Mike W. looked into the idea of metal roofs in the past. Dan asked J2 for a recommendation on the flat roofs above the garage. Del recommended that any roof replaced would be more robust than the TPO, which exists (a 45 mm fastened in the seam, not fully adhered). J2 would use a 60 mm fleece-backed, tougher and more substantial than what currently exists.

J2 asked about tree trimming; the community rule is they remain trimmed five feet away from any building. Leaves and vegetation were noted on the flat roofs. It was asked by J2, how often is debris/vegetation removed from flat roofs/gutters. MikeW said they get up there at least twice a year to remove vegetation/debris. **Del recommended that at least quarterly the flat roofs and gutters be checked.**

#### • Proposed Amendments

Leanne stated there a few items in the condominium declaration that need clarification.

**1. Reinvestment Fee** – This has been discussed by the board for a number of years, but never put to a vote of the owners. A reinvestment fee would allow the association to collect a fee when a unit in the community is sold. Per Utah law, upon the sale of a unit, the association may collect a fee of up to .5% of the sale price. These funds may be used for capital reserve projects. A number of units have recently sold, and collection of these fees could've helped build up capital reserve funds for the association. (For example: a unit sold at \$300k would result in a reinvestment fee of \$1500 and a unit sold for \$700K would result in a reinvestment fee of \$3500)

David Knecht clarified whether or not the seller or the buyer would pay this fee. This would be negotiable between the seller and buyer. A second notice would be recorded and this would be recorded with the county against each individual property owner.

Michael Bradley clarified a special assessment will be needed this year and the proposed reinvestment fee would be another way to generate revenue. A reinvestment fee would be a good way to protect the community and build up reserves, with the hope it would reduce the amount of personal money that would be asked of each homeowner.

Carissa noted this is a common practice amongst associations in the Park City area, particularly newer developments. In older developments, it is a matter of approving an amendment as the Association is doing. Historically, Utah law favors developers, so older developments have governing documents, which fail to address a reinvestment fee, which leaves more of the burden of capital reserves on homeowners.

**2. Elections of Management Committee** – The current bylaws call for five members to be elected to the management committee (two serving a two-year term, three serving a

three-year term). Leanne noted there have been differing opinions on the board between herself and Carri. Leanne noted things have become “muddy” throughout the years and it has become difficult to determine which person on the committee holds, which position and for what term length.

Leanne stated the purpose of this amendment would be to put all five members on a two-year cycle. In the attorney’s most recent legal opinion, an election this year is recommended (with the two members who initially had a three-year term, being up for election this year on a two-year basis, along with one two-year member; this would avoid all five members being up for re-election next year). This amendment would clarify the bylaws for everyone.

Carri noted her read of the legal opinion is that we do not need an amendment; rather exactly what Leanne shared (above) is already in place and this was the legal interpretation of what should have been followed since the 2012 Amendment. This is confusing for the community and there is no need for the Association to go the trouble and expense of another amendment.

Leanne noted she does not necessarily agree, suggests we get counsel to further clarify, but **does** recommend we have an election this year. Dan recommended we seek clarification from the attorney and move forward, one way or the other.

Lisa Graveline (prior to the meeting) sought a second opinion, and seconded Carri’s comments that an amendment is not needed to have two-year terms start this year, and that the three seats discussed in the last month’s meeting are in fact up for election. Lisa agreed to provide Carissa the legal opinion obtained by the Graveline's for distribution to the board.

Dan noted the final opinion should come from the attorney the HOA has been using Andrew Blonquist (Miller Harrison law firm). Carri noted the Graveline’s legal opinion mirrors and is virtually verbatim to the legal opinion received by the board immediately prior to meeting by the association’s counsel, Miller Harrison. Carri restates an amendment is not needed and three seats should be up for election this year, for two-year terms.

Carissa shared that we need to solicit bios from owners interested in running for the board. We can then share these with the owners so they can either vote, or submit a proxy. Since the meeting will be held virtually, Carissa said, we need to send bios to the owners and have owners submit their votes for the board electronically. There is nothing prohibiting an owner from giving another owner their proxy. This year will look a bit different. A proxy holder would give their ballot (along with the proxy they hold) on behalf of the owner they hold a proxy for.

**3. Special Assessment Language Added to Bylaws** – Leanne introduces amendment, which would add special assessment language to a section of the bylaws that talks about capital improvements. This would be an additional section.

For clarification on the topic, Carissa directed Leanne to the legal opinion provided by counsel just before the meeting. Carissa reiterated that the way the association had been reading the governing documents is incorrect and that the existing declaration does not require the voting of the homeowners for the approval of a special assessment.

There is a provision (as Leanne stated) that requires owner approval for capital improvements, but capital improvements and special assessments are two distinct things. Capital improvements can be paid by special assessments, or by regular assessments. Conversely, special assessments can be levied for numerous items that do not deal with payments for capital improvements. Carissa reiterated the governing documents are “pretty old”, but we now know the association has been reading and interpreting this incorrectly.

Andrew Blonquist, the HOA attorney, does not find it necessary or propose a change of the existing language. A special assessment to repair the roofs does not require owner approval, as it is not a capital improvement; it is maintenance of the building (an operating expense).

Michael Bradley requested clarification. Carissa clarified that a capital improvement and a special assessment are separate things and Andrew believes we have been interpreting things wrong and do not need homeowner approval to assess.

Garrick stated that in the board packet there is a document which provides definitions and examples of capital expenditures (which did include the documents that he created for the cap-x definitions page 4); in those documents it clarifies **two items that are considered capital expenditures: when something either significantly increases the life of an asset, or when something is added/new as an asset to the HOA.** Garrick provided examples such as adding new lights that didn’t exist previously, replacing roofs with metal roofs that significantly increased the life of a building. An operating expense is defined as bringing things back to original operating condition.

Carissa gave an example that (in terms of re-roofing) if we were to build up the base, foam, etc. with new roofing, that could be considered a capital project, but if we were simply replacing shingles, this would be considered an operating expense.

Based on the latest legal opinion, Carri asked ASHM to confirm that some of the “perceived capital projects” would not actually require a super-majority vote? Per Garrick, the super-majority vote isn’t necessary for the special assessment, but stated if a plan were in place for capital project expenditures, this would require a super-majority vote. Carri clarified further that items being considered by the board for a special assessment would first need to discuss individually by projects to determine if any fell under the categorization of a capital expenditure as described by Garrick. In other words,

a vote of the homeowners is only required for the approval of an actual project deemed a capital expense and not for the actual homeowner assessment necessary to fund the capital expense.

The board agreed they need more time to review Andrew Blonquist's email (as it was sent 25 minutes before the meeting) to fully understand. Carri commented that there were a number of legal opinions that should have been requested months ago before we find ourselves in this position. Leanne suggests a follow-up meeting with Andrew and the board. Carri asks what will be discussed at the Town Hall Meeting later without clarity? Leanne proposes we inform the owners of the amendments and the needs of community and how we intend to address them.

Carri is in agreement there needs to be more transparency and education of the homeowners. Can we release the draft of the reserve study to the homeowners to assist with the dialogue? The draft was provided in early July to the board and was supposed to be the supporting document for discussions with homeowners about the "needs" of the community. The J2 Report will definitely alter the reserve study, but the homeowners deserve to have the draft.

Carissa confirmed that she has posted both drafts and approved reserve studies to various communities in her experiences. Michael B asks Leanne how in the past the association has handled reserve studies?

Carri points out the last reserve study was only a draft and was/is posted on the website. Leanne confirmed "yes" the last reserve study was posted and never approved. Dan and Michael are concerned about posting in draft form and negatively impacting property values.

Leanne was concerned there are confusing points in the draft reserve study that could be misunderstood by homeowners. All agree that the reserve study needs to be posted "sooner rather than later". Carri suggests posting the draft reserve study to be a tool to rely on during homeowner discussions at the Town Hall Meetings.

Carissa reiterated that even approved reserve studies are "subject to change". This study is more detailed than the 2018 and will undoubtedly need further revision. Reserve studies are often subject to change.

The board decided to post the draft of the 2020 a draft capital reserve study to the owner website, under the understanding that this is a working document and will be modified. It's important to the board that owners have access to this information, noting we are awaiting details to complete it.

## **VII. Owner Comments**

Brian Sampaio (via email): Thus far, the owners have had to deal with a six+ hour power outage, a two-day cable outage, and now a gas line break. He questions, who is managing and overseeing this activity with MRW? He questioned whether anyone is giving MRW the grief they deserve for these disruptions.

Carissa reiterated we have a plan to deal with this; there are issues with job site management and Blue Stakes. Leanne noted the Comcast disruption resulted from Canyons Resort Drive construction, not the MRW project.

Lisa Graveline:

1. Widening of CRD: questions whether the County has surpassed the Hidden Creek boundary and cut significant roots of pine trees?

MikeW confirmed the County has been staying within their boundaries and has not crossed over onto HC property. With that said, the County has an irrigation line it needs to put on HC property. When the County installs this irrigation line on the HC property they will cut HC property, but at this point in time, the County has only cut up to the HC property line. Lisa asked if an independent verification of the survey had been done? MikeW said no he has not personally done this.

Lisa noted that there is vegetation on HC property that is being impacted and roots cut into and exposed. Has there been any discussion or a plan about a berm or bushes being planted along Building 38 to cut some of the noise and view shed? Dan has indicated that discussions have been had and this is a high initiative.

Leanne noted that perhaps we should put the County on notice that their contractor has cut a number of tree roots, and we believe it will impact the overall life of those trees. Additionally, even if the construction is taking place on non-HC property, they have been utilizing the parking lot and going over an area that now looks like all dirt (where Cedar Lane meets Ambush parking lot). Lisa recommended to MikeW that we document these items (via photo or video) to send along with the notice to Summit County. **A letter (and documentation) will be sent by ASHM with a time limit for the County to reply. If no reply is received, Andrew the HOA attorney will draft notice to Summit County.**

2. Notices of Public Hearings: \$250 a month is being spent to have Miller Harrison/Andrew Blonquist/his intern to produce notices of public hearings to the ownership group. Lisa noted that in the past couple of months, Lisa has actually been the one notifying Carissa of approaching public hearings, and that Carissa doesn't hear from the intern until she sends Andrew a draft notice for review/approval. Leanne confirmed with Carissa that she would follow up with Andrew regarding these concerns.

Lili Holland stated she hopes that we are successful with the NMU1 matters, but there are other parcels around HC that she is also concerned about the status. Michael Bradley has been working to secure the terms related to properties held by TCFC that abut HC property. Lili wants to ensure these other parcels and aspects aren't forgotten about. Michael Bradley stated there was an initial response from TCFC to get them to the table, but

again, TCFC has gone silent. Michael Bradley assured Lili her concerns have not fallen on deaf ears and it still a focus-point.

Lili Holland had questions regarding the potential assessment for owners adding bathrooms/bedrooms; Leanne stated she would speak to her offline. Lili asked if a possible “resort fee” could be assessed as she brought up last month for discussion. Inquiring if the “resort fee” could be included when asking legal about the usage fees. Lastly, Lili also asked about the July legal opinion and asked if that was going to be disclosed tonight?

Leanne stated that there are parts of the legal opinion that are definitely available but the Board has not spent any time talking about how the biggest part can possibly be implemented. The real reason it hasn't been released is because of how “legal-focused” the response was and given the complexity of the J2 study there needs to be follow up. Yes, it says the HOA is responsible for insulation but as far as the ice dams; it's not a straight insulation issue. So, the question is what is the Board supposed to do with that, it's a “very gray area”, I don't know if it's “a one size fits all legal opinion”.

Vonya Wilkinson stated she is receiving water bills. Carissa clarified that since the MRW project, the HOA is no longer being billed for water; it is being directly billed to individual homeowners. The largest part of the bill is a base rate (approx. \$60), a loan assessment for the infrastructure (approx. \$26 - which will be assessed for about 20-25 years), and the small remainder is actual water usage based on charged as a percentage ownership of the association. There are not individual meters to each unit. This direct billing of individual property owners has been in effect since June of 2019. Carissa stated homeowners indicated after the change, their highest bills last summer increased for larger units by +/- \$20-\$30 and for smaller units +/- \$10 per month. While paying the base rate and loan, homeowners are paying significantly less for water usage because the rate is actually lower because HC is being treated by MRW as 130 individual users as opposed to the HOA as one user, which would bump the rate to a much higher rate category.

### **VIII. Hidden Creek Meetings**

- October 23, 2020 5:00pm, MST
- Town Hall Meetings: September 17<sup>th</sup>, 6:30-7:30pm. October 1<sup>st</sup>, 6:30-7:30pm
- Regular Meeting Schedule: Third Thursday of month at 3:00pm, MST

### **IX. Adjourn**

