

## **LDWA ANNUAL SHAREHOLDER MEETING TUESDAY, FEBRUARY 3, 2015**

Board members present: Elliott Sheltman, Danielle Stirling, Ron Cundick, John Markovich. Jim Vasquez was excused. Staff present: Mark Osmer, Field Operations; Karen Markovich, Administrative Manager/Corporate Secretary.

Shareholders present: Dale & LoAnne Barnes, Jack & Mitzi Butler, Terry & Nina Danielson, Ben Gordon, Manny & Joy Goy, Wells & Arleene Green, Syd Holt, Kayla Koeber, Roxanne Leonard, Dorthy Mauk, Cindy Neubauer, Gerry Otteson, Col. John Poast III, Susan Rehfeld, Donna Ricci, Ralph & Ange Rohr, Mike Sandstone, Susan Savage, Joel & Michelle Silkett, Penny Weston.

- I. Call to Order by Elliott Sheltman at 7:00 pm.
- II. Prayer led by Danielle Stirling.
- III. Pledge led by Elliott Sheltman.
- IV. Motion by Ron Cundick, second by Ralph Rohr, all unanimous to approve the Annual Shareholder Meeting Minutes dated March 27, 2014 and tonight's Meeting Agenda.

IV. 2014 Annual Report - Elliott Sheltman, President.

Elliott expressed his sincere appreciation for the great group of individuals who volunteer their time and the great group of individuals who work for LDWA. 2014 was a very productive year; the current Board has long-term goals and will continue, with shareholder support.

We have completed about 30% of the re-piping project replacing the original sub-standard lines with new piping that exceeds current requirements. As administrative manager, Karen Markovich is the gate keeper of expenditures, works with our Field Operations manager Mark Osmer to establish costs for time and materials, and presents the quotes to the Board for approval. Costs of improvements are paid for with the Capital Improvement/Emergency Repair Fund (*sources of this Fund are reviewed below*). We are currently on schedule and hope to complete the work by the end of 2016.

The Town of Leeds Main Street Curb and Gutter Project.

Last fall, LDWA learned of the Town's project to install curb and gutter on North Main Street when the Town engineer contacted us after the Town had excavated LDWA's main water pipeline on N Main St. The Town engineer told us we needed to relocate our main water line to allow the Town to complete installation of its curb and gutter, and it needed to be completed immediately as the Town had a deadline for completion of their project.

When the main water pipeline was originally installed about 20-30 years ago, it was placed relatively close to the surface and dirt was added to build the surface up to the required depth of the pipeline. We suspect that was done because of the dense rock & boulder terrain that prevented the pipe from being buried at the required depth.

LDWA looked at the line and agreed to relocate and bury it under the new curb and gutter, with the stipulation that the Town would cover the cost of excavation.

The Town's construction crew quoted LDWA a cost of over \$23,000.00 to complete reinstallation of the line. LDWA opted to complete the work in-house with the help of board

volunteers and others, at a cost of \$14,000.00. While this project was unexpected, the end-result was a good replacement of our main water pipeline and gave LDWA the ability to move a fire hydrant in the area of Main St and Vista Ave, improving accessibility in the event of an emergency.

#### Revenues collected in addition to Shareholder Income.

LDWA has established policies and fees that bring in additional income:

1. The Share Reinstatement Fees on standby and active tap parcels that have been foreclosed, abandoned, relinquished, or with payments in arrears over 120 days, have brought in over \$40,000.00 over the past 2 years. The majority of that income goes directly into the Capital Improvement/Emergency Repair Fund.
2. We also continue to charge Meter Rental and Construction Water Use Fees for development, as we believe our water is a valuable commodity. Last year we brought in over \$20,000.00 from the I-15 construction project alone, with the majority of it deposited into the Capital Improvement/Emergency Repair Fund.
3. Last year we established 3 new Fines with a minimum of \$500.00 for (i) Water Theft, (ii) Illegal Use of LDWA Property, and (iii) Property Damage & Destruction. These fines are subject to additional fees and incident reports are filed with the Washington County Sheriff Dept.

All Fees and Fines were established for a number of reasons - foremost is that we all hear the term, "new development and growth pays for itself". Growth & development that ultimately never comes to be, while government entities approve increased spending to 'ramp up' in anticipation of the new growth that never comes; the end result has been increased local taxes.

We are working to make the point that a business can indeed be operated successfully and soundly without the need to go back to the end-user and increase water rates. Planning ahead, working to bring in revenue streams that are either constant or at least cover the cost of operations plus a profit margin, proves a business can be run efficiently and with a profit. In private business, if expenses are greater than income, the business closes down. The exception to this is government entities which exist by doing just the opposite, raising taxes to cover increased spending that in most cases is subjective and unnecessary to operate effectively.

As a company, the current Board and Staff continue to keep overhead costs down. Our goal is to hold shareholder residential rates as-is without an increase for as long as we serve on this Board.

Silver Reef Well & Spring Water Storage Expansion. We are in the process of increasing the water storage capacity by extending a line from Silver Reef Well & tanks to the existing storage tank located in El Dorado. This will provide an additional 125,000 gallons storage of the Silver Reef well and Oak grove Spring water in the event of an emergency.

Cement Tank on Silver Reef Road. We are working with our Leeds Historical Committee to re-purpose the cement tank structure as an official historic site. The founders of this water company had a vision and were forward-thinking, which is apparent in the intent of the original Bylaws they established. Signage will include names of the Founders and an historic summary

in keeping with the signage at the Museum and in Town. This will save \$5,000.00/year in rent and draw interest to our community.

Overflow Prevention. The 450,000 gal tank (LDWA's largest capacity tank) is in the process of being upgraded with a secondary overflow system as its elevation is lower than the 350,000 gal tank. The existing overflow system works well, but if there were ever a catastrophic event or major valve failure, there is the chance the water might channel into the abandoned man-made ditch. Over the years the old ditch has filled with debris and some areas have been completely filled in. As the storage tanks are located on Forestry Service Land, we are working with them to expedite approval of this project. They have responded favorably and we should have their green light within the next two months.

Local and State updates re: water rights/usage, drought conditions. As we know, we have been experiencing serious drought conditions over the past few years. Lake Powell is at its lowest point and has decreased every year since its completion. Powell is required to provide 10% of its water to Lake Meade; last year the ability to do that was cut 10%, as only 9% could be provided. Several million dollars were spent at Lake Powell to dredge one portion of the Lake because boats can no longer reach the area. Lake Meade water supply has dropped significantly, with over \$34 million spent to dig deeper to reach the turbines to pump water. It is important to be proactive during drought times and is one of the reasons we have allocated the water in the well in El Dorado for catastrophic or emergency use only, if ever needed. We want LDWA to have as many water resources as possible to be prepared for continued drought conditions.

The State has been monitoring the drop in the water tables and issued a Priority Call on the Virgin River & its tributaries last July 2014. Water rights with priority dates after December 31, 1900, are now being restricted. We will post the Priority Call letter on the website for shareholder review.

Financial Report - Danielle Stirling. LDWA's top priority is the distribution of water and also to operate within our budget to maintain either a break even or net gain. For the past 3 years, LDWA has successfully operated in the black. In 2014, the estimated budget for both Ordinary Operating Income & Expenses was \$120,650.00. At the end of the 2014 calendar year, we grossed \$150,943.71 in Income, had \$111,906.46 in Expenses, with a net gain of \$39,037.25.

In past years, shareholder account balances were carried over month after month, resulting with a high number of late and non-payment on accounts. LDWA was actually subsidizing shareholder use of water. During the past 3 years we have enforced the LDWA bylaws and are requiring timely payment of account balances. By charging late fees and implementing water shut-off for non-payment of accounts, we have significantly reduced the number of chronic late payers and increased income. Water is necessary for life, and its cost should be top priority for all household budgets.

In 2014, we paid an additional \$100,000.00 on the principal of the DDW #3F138 Division of Drinking Water loan known as the "Project Upgrade Upgrade", reducing the 30-year term loan by 7 years.

Shareholder Roxanne Leonard said the Ordinary Income listed in the Detail did not equal the Summary Table on the draft 2015 Budget. Danielle checked the 2014 Profit & Loss and confirmed the 2015 Budget Summary calculations were correct, and the Detail of Income and Expenses were that of 2014. Karen apologized for any confusion and said the approved 2015 Budget would be posted on the website later this week.

Public meeting with DDW State Engineer in 2014 - Ron Cundick. Ron attended a meeting with the state engineer and what the state has done is to open a general litigation for all water rights in the state. They are requiring everyone in the state who has water rights to once again proof up on the use of those rights. The state engineer said this is a requirement regardless of prior proof of use, regardless of any existing court decrees. The State is in the process of a major effort to assess 'use or lose' of all water rights, which is in part a result of the ongoing drought. Ron asked the engineer what he would advise we do given the state requires water utilities to establish *Water Conservation Policies*, yet if we can't prove we are putting the water to good use we could ostensibly lose the right. The engineer replied we should 'turn on our taps.' Ron expressed frustration with that answer and added that when he lived in the State of Nevada, they enforced the 'use or lose' and he lost the water right to his own well. LDWA Board & staff work to be good stewards of our water and we are not advocating turning on taps needlessly; on the other hand, we do not want to lose any of the rights we currently own. We don't want to be forced to merge with any other water company, we want to keep LDWA as a separate shareholder-owned company. LDWA's water is of highest quality and to merge with an outside entity would introduce potential for higher levels of toxic metals and other contaminants in the system and dilute the quality of our water. Elliott said if LDWA were part of the WCWCD, we would not have the ability to control the quality of our water and the cost would be much higher.

Shareholder Mitzi Butler asked if this could possibly result with a need to seek legal counsel to protect our water. Elliott said we don't know at this point and it doesn't look that critical, but it can't be ruled out.

Shareholder Ben Gordon asked if LDWA continues to have the ability to save water for reasonable future growth based on a designated service area. Ron said yes, although now the numbers for reasonable growth as projected in the 2007 Capital Facility Plan are significantly less. The State continues to allow us to use the original projections and we won't change that formula unless challenged.

Shareholder Kayla Koeber expressed her sincere appreciation and thanks to all the Board and Staff, and is thankful for the level of service and professionalism for our small town and called for a round of applause.

Shareholder Ralph Rohr asked if we have an update on the Lake Powell Pipeline. Elliott said he has attended Washington County Water Conservancy District (WCWCD) Board meetings. The WCWCD has \$80,000,000.00 in floated bonds, which is the money they used to build WCWCD infrastructure. The debt was to be repaid by the new growth in Washington County, new growth that never happened. WCWCD is paying the interest only on that debt at a cost of about \$3,000,000.00 year. The cost estimate for the proposed Powell Pipeline Project currently exceeds well over \$1,000,000,000.00 and rising. How it would be repaid, if built, is unknown.

Amendments to the Bylaws - Ron Cundick. The purpose of the proposed amendments is to prevent LDWA from accepting water rights that may not have clear title. In 2010, LDWA accepted by use of quit claim deeds certain water rights that were advertised as free of encumbrances; as a result, we were involved in a lawsuit in 2014 that was filed by an original owner. In review of the water rights that were affected, the amendments to the bylaws that are up for shareholder vote tonight will require parties tendering water to LDWA bear the burden of proof that title to their water rights are clear of all encumbrances, and pay the cost of any legal analysis LDWA may need to take to complete that verification, and transfer water by use of warranty deeds, bonding, or other legal document of guarantee. The amendments are for the safety and protection of our company.

Elliott confirmed that a yes vote on the amendments will put all burden of proof and related costs on the developer(s) or person(s) bringing water to LDWA.

Nominations for the Board of Directors. Motion by Ron Cundick to nominate Elliott Sheltman, second by Karen Markovich; motion by Danielle Stirling to nominate Jim Vasquez, second by John Markovich; motion by Mitzi Butler to nominate Jack Butler, second by Jack Butler; motion by Penny Weston to nominate Manny Goy, second by Karen Markovich. Nominations closed.

Shareholders Susan Rehfeld, Donna Ricci, and Joy Goy tallied the ballots, as follows:

Elliott Sheltman: 25 votes

Jim Vasquez: 25 votes

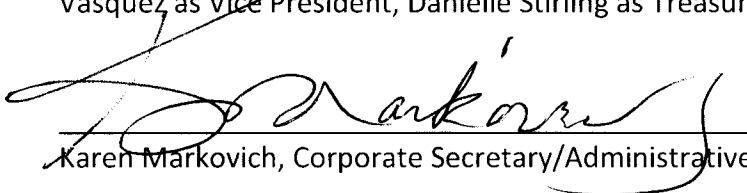
Manny Goy: 0 votes

Jack Butler: 0 votes

Amendments passed 24 votes in favor, 1 vote against.

Motion to adjourn at 8:03 pm by Elliott Sheltman, second by Ron Cundick.

Executive Session. Motion by Ron Cundick to appoint Elliott Sheltman as President, Jim Vasquez as Vice President, Danielle Stirling as Treasurer; all unanimous.

  
Karen Markovich, Corporate Secretary/Administrative Manager

# LDWA BOARD MEETING MINUTES

June 25, 2015

Meeting at LDWA, 1901 Silver Reef Drive, Leeds, UT.

## I. CALL TO ORDER

**ROLL CALL.** Board members Danielle Stirling, Ron Cundick, Elliott Sheltman present; John Markovich & Jim Vasquez excused. Staff Mark Osmer & Karen Markovich present.

**PLEDGE.** Led by Elliott Sheltman

**PRAYER.** Led by Danielle Stirling

## II. ATTENDEES

Shareholders Manny & Joy Goy, Helen Stoneking, Daphne Hunt, Penny Weston, Fire Chief Steve Lewis, Ange Rohr, Susan Savage. Presenters Rick Sant of Silver Pointe Estates, Ian Crowe, Alberta & Neil Pace, Larry Davis, Leeds RV Park Manager. Guest Peter Graziano.

## III. CONSENT AGENDA

**Motion by Ron Cundick, second by Danielle Stirling, all unanimous to approve tonight's Meeting Agenda June 25, 2015 & Meeting Minutes dated Aug 28, 2014.**

## IV. FIELD REPORT - Mark Osmer.

1. The monthly Bac-T water testing passed, all scheduled water tests are current.
2. Flow/Flush of all dead-end line fire hydrants completed.
3. Installation of a new 12" overflow pipeline into Leeds Creek is now complete. The US Division of Forestry granted approval to complete the project through their land, with stipulation that the vegetation in the old drainage channel not be disturbed. The project took longer than originally estimated because of the massive dense granite buried in the area. John Markovich volunteered his time on the 2-1/2 week project saving additional cost to LDWA. The location of this new line has increased our storage capacity by 30,000 gallons. Back in 2012, LDWA received a quote of just over \$20,000 to complete this project with a smaller pipeline. We completed the project in-house for \$13,000, including our engineer Karl Rasmussen's recommendations. Photos of the Project are posted on the LDWA website [www.ldwautah.org](http://www.ldwautah.org).
4. Mark took an unused valve from the cement tank, refurbished and installed it at the tanks for auto-fill, eliminating the need to check the tank levels every couple of days.
5. Tank #125 (fka El Dorado tank) is now full of the Silver Reef well and Oak Grove spring water, increasing our total storage capacity by 125,000 gallons.

6. Installation of upgraded service lines continues downtown replacing the old black lines with new poly pipelines.
7. Washed out areas of roads around the LDWA storage tanks have been filled and repaired.
8. Storage tank #450 (fka pink tank) was damaged as a result of having only 1 air vent on the cover. It was not large enough to handle the release of air pressure as the tank refilled. With the upgrades to the system the tank now refills more quickly than it did when it was originally installed. Damage includes a split in a top portion of the tank wall and cover, and a small section of top siding that will require new material and welding repair. Engineer Karl Rasmussen assessed the damage and recommended installation of 3 to 4 air vents, and all new vents will include design upgrades to prevent debris or wildlife from access in the tank.
9. Future projects include installation of a 'plumb-bob' to measure the depth of water levels in the well.

## V. BUSINESS

1. **Standards for RV Park Meters & Back Flow Preventers.** LDWA previously discussed replacing the multiple ¾" meters installed at two of the RV Parks in Leeds with one 2" meter [at each park], which will increase the gallons per minute (gpm) by up to 64.4%. Leeds RV Park has 5 ¾" meters and the business center/RV park across from Town Hall on N Main St has 4 ¾" meters. Zion West RV Park previously installed a 2" meter to serve their park several years ago and does not require an upgrade. LDWA will absorb the cost of the 2" meter upgrade and installation of the back-flow preventers. One 2" meter is equivalent to 7 ¾" meters, which will increase the number of RV spaces that could be served.

Larry Davis, Manager of Leeds RV Park, asked who will be responsible to bring the existing five lines up to the 2" meter; Elliott replied the cost would be the RV Park's responsibility. Larry calculated their cost will increase by about \$45.00 mo and would prefer not to have the upgrade completed at their park. Elliott said they currently pay \$80.00 mo that is collected to pay off the DDW/DEQ loan ("Project Upgrade"), for the four additional meters. Larry requested a copy of the ordinance or state law that requires the upgrade, as they do not want to pay the additional costs. Ron Cundick added that the amount of water that goes through one meter, you will continue to have the option of how the water is allocated.

2. **Water charge for the LASSD building located at 680 N Main St.** Elliott & Danielle explained that this charge will be for the water served to the building only, and is not a charge for the water used for fire protection.

Fire Chief Steve Lewis said they fill their water trucks from the metered water at that location because it isn't always convenient to use a fire hydrant if the operator doesn't know how to safely & correctly operate a hydrant. Steve thought the 2" line inside the fire station was originally installed specifically to accommodate filling the water trucks. Mark suggested they could install a separate meter for filling trucks. Steve said they will fill the trucks from hydrants down the road and bypass being billed. Steve said it's not a big dollar issue, but in his view, it should not be charged.

Susan Savage asked if LDWA pays the fire district. All shareholders pay for LASSD through their property taxes. Elliott asked what other utilities provide free service to LASSD, Steve said none. Danielle clarified that LDWA serves water to the Town of Leeds municipality only, and does not serve water in Silver Valley or Homespun. LASSD serves all of the Leeds Area including outlying areas of Homespun, Del Oro, Silver Valley and Interstate 15 and LDWA is not a public or government entity. Discussion included the upcoming merger of LASSD with the Hurricane Fire Dept and Steve agreed it will be a lot easier to change it now than after LASSD merges with Hurricane. **Motion by Danielle Stirling, second by Ron Cundick, with all unanimous to begin charging for the water served to the LASSD building located at 680 N. Main St, Leeds, UT, beginning July 1, 2015.**

3. **The Silver Reef Foundation Museum and Cosmopolitan water taps.** Ron said Washington County owns the historic buildings, and they plan to shut off the water tap that serves the Cosmopolitan building. The Cosmo building is not included in the lease between the Silver Reef Foundation and the county, and the Foundation, with approval from the County, sometimes uses the Cosmo building for programs and services for the community. The Foundation would like to preserve the area for the community; however the County does not want to pay for two meters. Ron asked if LDWA could consider combining the two taps to serve both buildings because the Cosmo building will deteriorate without water. Danielle asked if installation of a 2" meter is justified for the two buildings; Ron said the two buildings combined use less than 10,000 gal mo and a 2" meter isn't justified. Danielle added there has to be another way for the community to raise money for this, but on the other hand, LDWA is responsible to its shareholders and we cannot make an exception to the rule. Susan said she thought we could only have one tap per parcel. Karen said there are several parcels in Town that have 2 or more taps attached. Ron thanked the Board and said they will continue to work on this with the County.

4. **Main Line Water System Redundancy (Looping).** Elliott said when LDWA worked with the Town in Nov 2014 moving main water pipelines [for the Town's Curb & Gutter Project on the west side of Main Street], we found there is only one line that runs about 150' feeding water to downtown. We are looking at viable areas where LDWA can loop the downtown system to minimize loss of service during repairs or servicing. The long-range plan includes design engineering and will possibly require access easements.

5. **Storage Tank #125.** Increasing LDWA's water storage reserves is a wise move, particularly during drought conditions. With that in mind, we have re-commissioned Storage Tank #125 and plan to add valves to control filling and use of the storage tank with the Silver Reed Well water and Oak Grove Spring sources. Ron agreed this is a top priority and the Board agreed to schedule the Project over the next month.

***For clarification & accuracy, detailed minutes follow for Items #6 & #7***

6. **Silver Pointe Estates - Rick Sant.** Rick Sant said he submitted plans to LDWA about 3 weeks ago for plan check and was wondering where we are with them. Elliott said we delivered the plans to our engineer, Karl Rasmussen with Pro Value Engineering and we've not yet received his review.



**Rick:** "Is there any way we can work directly with Karl Rasmussen?"

**Elliott:** "This is a busy time of year for Karl, and it can take time [*for him to complete reviews*] and we ask that any requests for meetings first go through the office for scheduling to provide oversight on all projects."

**Rick:** "It's been about 4 weeks, and I certainly thought he [*Rasmussen*] would have had a chance to look at them and report back to the Board by now."

**Elliott:** "It's been a really busy time for LDWA too; we've have additional ongoing projects such as what we've discussed earlier tonight. It can be difficult to get immediate approval given Karl's busy workload."

**Rick:** "So what do I do, just wait? It's kind of frustrating."

**Elliott:** "You came here 3 years ago - "

**Rick:** "But the plans were approved 3 years ago."

**Elliott:** "No they were not, not by LDWA. You came here 3 yrs ago, presented your project and told us you were going to start quickly - and we brought our engineer in; then you didn't go anywhere with it. At that time I told you I understood when you said 'the economy is not as good' - that is what you said - the economy was not going as well as you'd hoped - so okay, you were going to slow down and we understood that. One year later, you came back with an engineer, and again it was the same thing, we jumped on it, and one month later, *that* all fell apart. At that time I told you - and we have the meeting minutes - that we need to start on this *now*, because we don't want to hold you up; we have other projects. We didn't want to hold you up. And that didn't work, because you told us your engineer had quit about 8 months earlier that year.

Then about this same time last year, you showed up again with the same deal and again we jumped on it, and again a month later it was gone. And I said this time if you are going to do this, don't come at us like 3 weeks ago and expect us to do it all now, because we don't have the ability to do that; we have other projects in process. And you agreed.

Last year, as I sat on the Leeds Town Planning Commission and heard your presentation, I told you the same thing; we have the meeting minutes for that August 2014 Leeds Town Planning Commission meeting.

I understand that this is something that is important to you, but we have a list of ongoing projects - example is the recent overflow project which was quite labor-intensive for the Board, our staff, and the engineer.

We are having a hard time too, as Karl is quite busy with LDWA as well as his other clients. We can work this into the schedule, and I understand the frustration, but please understand we have frustration when you've come in here over the past 4 years and it never goes anywhere. This is on our list and know that Karl has been very busy this time of year."

**Rick:** “Yes, I understand, but what I say is, what else can I do; I mean - could you bring in somebody else, and I can pay them to plan check the drawings?”

**Elliott:** “Pro Value Engineering & Karl Rasmussen is the engineering firm we work with.”

**Rick:** “I mean Karl, can he bring in some help if he’s overloaded?”

**Elliott:** “We could ask him, that is up to him; we will put that down as a request for him and see if he has someone working for him.”

**Rick:** “All right.”

**Elliott:** “Regarding the clean up process of your land, I know you have sent the completed remediation materials to the State for their approval - have you gotten any response from the Division of Environmental Remediation & Response [DERR] on that?”

**Rick:** “No, there again, we finished [the cleanup] almost a year ago, and sent the [Remediation] Report in to them [DERR] and no response so far.”

**Elliott:** “Do you have any idea or indication when that is going to be?”

**Rick:** “I talk to them every month or so and they promise me they are going to get on it this month and hopefully we will see some response from them.”

**Elliott:** “The reason I ask is that we have a map here from the paperwork you submitted for approval & it has ‘yellow dots’ on it that indicate areas of uranium exceeding minimum fed limits. The ‘yellow dots’ are all the same size on the drawing, and are not to-scale. Karen called David Bird, Director of the DERR, and those yellow dots are hot spots there, and they are going to be left in-place as-is. Did you know that?”

**Rick:** “Yes, they are naturally occurring.”

**Elliott:** “David Bird indicated they are large areas of varying sizes and they don’t know if they are big rocks or not; but it is probably stuff that is too large to remove.”

**Sant:** “Well, they are not large areas; they are naturally-occurring rock.”

**Elliott:** “That ‘naturally occurring rock’ is radioactive uranium ore. That was one of the things I was going to ask, is there a way to find out what the actual size of those areas are?”

**Rick:** “In other words, they are rocks that are naturally occurring, and if you went in there to remove them, you would just keep on going and then you would be mining, instead of cleaning up the area. All we did was clean up the residue that was there from 100 years or so ago from the mining, and there are some areas that will remain that way, because that is the way they are, and that is a naturally occurring thing.”

**Elliott:** "It might be helpful if you could give us an overlay with the development so we can see where these hot spots are in your plans - is that something you can do?"

**Rick:** "Sure - but why would that affect the water company?"

**Elliott:** "Because we want to know if we are running our water lines through that stuff or not."

**Sant:** "Okay -"

**Elliott:** "I think there are 18 spots there, they are all the same size on the drawing and according to Karen's conversation with David Bird, they are not all the same size. So, that would be helpful and is probably something we are going to want to look at and identify, do you agree?"

**Sant:** "Yeah -"

**Ron:** *indicated nod of head, yes.*

**Danielle:** "Absolutely."

**Elliott:** "The remediation is an important part for us, because we need to see what is in the area. LDWA needs to bring someone in to review the intricacies of running water lines through that kind of debris with radioactive rocks and mercury."

**Sant:** "Okay."

**Elliott:** "We will contact Karl and see if there is some way we can get something together, like I said, we'd like to do that through the office, like you've done before with us."

**Sant:** "Okay, if you can do that I'd sure appreciate it."

**Elliott:** "We will look into it."

7. **Water Rights - Elliott Sheltman.** Ron did an excellent job reviewing our Water Rights a couple of years ago, researched and identified them. I'm sure it was a dreadful job and no one else had done that in the past & we appreciate that.

A little over 400 acre feet of water was brought over to LDWA in 2010 under an Agreement [*dated Nov 24, 2010*]. Basically, we have now lost a great deal of that for multiple reasons: there are lawsuits and counter-suits on some of it, there was collateral on a loan evidently that was not repaid, and we have consequently had to transfer more than ½ of that water back to the entity [*who transferred the WRs to LDWA*] to get out of that situation.

Going into the legal background a bit - the attorney said there hasn't been any activity re: the lawsuit(s) since that time, and advised we wait and see if LDWA is summoned. Water that was brought to LDWA from Silver Pointe Estates [Gary Crocker/Silver Reef Inv Holdings, Inc] is also part of that, with 65 Acre Feet that is somehow 'tainted' - meaning there are outstanding Trust Deeds,

and some of that water might have been included in a Property Transfer when the land previously sold to another party; our attorney is researching that as well. However, there are definitely some problems with that and the water is encumbered.

So the question we have to ask on that original Nov 24, 2010 Agreement is, concerning the fact that in some cases where the water was represented as encumbered, the water has disappeared; in other cases the water that was represented as unencumbered was not. That would mean bringing in our attorney again which would be extra costs - I want to put it out there so you know what is going on.

At this point, it [*the Agreement*] is pretty much up in the air - a lot of that is because of what the attorney has found thus far. I don't know what is going on in that area as it seems most of the water coming from Hurricane is affected in one way or another.

**Ian Crowe:** "Alberta Pace just purchased a portion of that water, and we paid the \$1500 legal review fee to LDWA, and over \$1100 was refunded to Alberta. Why wasn't the review followed through to the end, why was the money returned to Alberta if there was more legal review to be done?"

**Elliott:** "Did you have a water rights attorney check the water right out before you purchased it?"

**Ian:** [Nodded yes] "There've been a couple of attorneys that have looked into it - Mr. Sant has a water right attorney that had looked at it, and Roger Sanders is another one who looked at it."

**Alberta Pace:** "We have a son who is the head of the Sandy Water Dept; he personally went to the head of the water department, the State of Utah, and he was told that these water rights were valid and good, and there is nothing wrong with them."

**Elliott:** "That's not what we are getting from our attorney. The reason we found this, is because we are looking at our water rights overall. When we bring water over, we bring it over with a Warranty Deed, per our bylaws as voted on in February at our Shareholder's meeting. What that means is, when we are looking at water, we are not making any representations on it.

Warranty Deed means that if you bring it over and it is not as represented, it comes back to you - it doesn't cost us anything - we have to replace the water and you have to pay for it. We may have to sue for that, but what that does is gives us overall protection, so the way we look at review of a water right is not the same way that a person purchasing the water would be looking at it. This was checked out and the State and the County records are sometimes different: you might find documents recorded at the County that are not recorded at the State, or vice versa. The property deeds recorded at the county come into play because many of them include water rights when property is recorded under new title.

Yes, the attorney reviewed this water right and initially thought it was acceptable to bring over, but because of what we've been doing to review other water rights, including those brought in under the 2010 Agreement, he came back with additional findings. We provided you with the details of his findings the same day he contacted LDWA."

**Ian:** "Yes you did, and part of that property had no reconveyance; Ash Creek Special Service District [ACSSD] has some of the property, so we are going to go back to them and their title insurance company will review it."

**Elliott:** "We are not sure that there is an issue with ACSSD for Alberta's water, but the 2 Trust Deed Documents we provided to you are an issue. We have cause for concern regarding ACSSD and other water rights that LDWA received through the Nov 24, 2010 Agreement."

**Ian:** "Who is your water rights attorney?"

**Elliott:** "David Hartvigsen in SLC."

**Ian:** "Okay, great. So basically, what are you looking for before the water will be acceptable?"

**Elliott:** "The two outstanding Trust Deed Documents need to be satisfied. Again, you are bringing it in under a Warranty Deed and even if we take it and it is not good, it is not our problem."

**Ian:** "Yea, a Warranty Deed, but you didn't see it as an issue?"

**Elliott:** "Not the ACSSD transfer, but definitely the 2 Trust Deeds. I don't know why these issues were not originally found, but again, we notified you the same day our attorney notified us regarding the outstanding Trust Deeds. The reason he found this is because we are paying him to look at additional water rights from that 2010 Agreement."

**Ian:** "Another question, Alberta is looking to build homes on ½-acre parcels, and I heard that El Dorado Hills Subdivision brought in .85 acre feet water per lot, and they are much larger lots. What is required from LDWA for ½ acre lot?"

**Ron:** We weren't around when they completed the transfer and it is unknown why they did that back then. We are now trying to be fair and equitable for all shareholders.

**Rick:** "So concerning the 105 acre feet that we deeded to you about 5 years ago, where does that stand? Do you see any problem with that?"

**Elliott:** "We are still looking into that and will have an answer for you within a couple of weeks."

**Rick:** "What is the name of your attorney? So he's working on that and he will report back to you, and you will let us know if our water is acceptable?"

**Elliott:** "Yes, we'll get back to you."

**Ron:** "I made this Agreement on behalf of the LDWA several years ago [2010], with several entities who Quit Claim Deeded water to LDWA. Most of the water was pulled off of property located in Hurricane. Various parties used the real property to raise money and pledged it; some used the water rights as collateral. Now we have parties in litigation claiming that when they

pledged the real property, it included the water & you weren't allowed to pull the water off the land. Some individuals say it's the property and the water, others are saying it's only the land.

'That's the basis for these disputes, somebody thinks they own the land and the water; it is double-collateral.

'Most of the water was transferred by Quit Claim Deed to LDWA which means there are no guarantees for LDWA. That's why we now require a Warranty Deed in addition to legal research of water rights coming to LDWA.

'We are trying to save our money and not be involved in the disputes - we've changed our procedures to require more oversight when bringing water to LDWA. It has left us with a great deal of uncertainty.

'Understand these are not arbitrary decisions we are making - we may end up losing 400 Acre Feet of water in this process, we don't know. It will continue to take awhile to sort it out; we are not going about this lightly, and we are not trying to give you a hard time. It takes a substantial amount of time to complete researching this. It's been a long haul."

**lan:** "So if we were to Warranty Deed Alberta's Water Right to LDWA, would you accept it?"

**Elliott:** "No, it is in violation of LDWA bylaws to accept water if we know that it is encumbered or tainted. If we do it accidentally without knowing, that is different, but we can't take water rights if we know they are encumbered."

**lan:** "Isn't there a statute of limitations on when someone can make a claim?"

**Elliott:** "No. It doesn't appear that way and according to the DDW, title to water rights are always subject to proof of clear title."

**lan:** "You should have a detailed list of what your legal review includes."

**Elliott:** "This is a learning process for us too, and we are doing that; we are currently working on our own dime for legal review."

8. **Water Authority.** Responsibilities of the Town of Leeds as the Water Authority. Elliott said we talked about this a few years ago; there is a difference between a Water Provider and the Water Authority. Ron Cundick explained that back in January 2008, the Town of Leeds wrote an Ordinance to declare themselves the Water Authority in charge of all the water for the Town of Leeds, which they can do. But the Water Provider for Leeds is LDWA and each time we want to provide water to somebody we have to go to the Town and ask if we can provide the water. There is no other culinary water provider in the Town of Leeds, and thus far the Town has agreed to allow LDWA to serve water. Elliott asked about any Agreement between the Town and LDWA as LDWA was consulted in the Town's decision to declare themselves as the Water Authority. Ron said there is no agreement signed by LDWA & the Town declaring LDWA as the Water Provider for the Town, but that is what we have been. Elliott asked if we need an agreement, Ron said it would be desirable but it's not necessary.

## **VI. FINANCIAL UPDATE - Danielle Stirling, Treasurer.**

Danielle provided the P&L for the first 5 months of this year and we are averaging \$5,000.00 a month. The Project Upgrade Acct currently has enough funds to make 2-1/2 yrs of payments toward the DDW Loan #3F138, and we previously made an additional \$100,000.00 payment in 2014. Danielle wants to allocate funds to the projects that we discussed tonight.

We have done extremely well on requiring shareholders to pay their monthly bills. Danielle acknowledged Mark's phenomenal work from sunrise to sunset and thanked him for his work, and thanked Ron, Elliott & the Board for their dedication and time working on the board. Danielle said shareholders are welcome to look at A/P, A/R, and bookkeeping. Danielle said and there is no any LDWA could run without Karen.

**VI. DISCUSSION & COMMENT.** LASSD Fire Chief Steve Lewis asked if we knew the results of the combined ISO scores with LDWA & LASSD. Lower scores are best and we now have scores lowered the insurance rates and this is a great accomplishment. This year we got our scores down to 4.7, a record-low. By comparison Hurricane's score is a 5.8.

Chief Lewis has concerns for the electrical power needed to draw water from the well and suggests LDWA purchase a generator, possibly a surplus military generator, to run the well pump in the event of a loss of electrical power. Ron asked Steve if he could provide information on that; Steve said his new boss, Hurricane Fire Chief Kuhlman, may be available to help locate military surplus supplies.

Elliott thanked Steve and said it's a good idea and thanked him for his suggestions.

**VII. ADJOURNMENT - Elliott Sheltman at 9:00 pm.**

**VIII. Executive Session held at 9:15 pm.**

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Karen Markovich, LDWA Corporate Secretary/Administrative Manager

**LDWA BOARD MEETING AGENDA**  
**THURSDAY, JULY 30, 2015**  
**Held at LDWA, 1901 Silver Reef Drive, Leeds, UT**

- I. CALL TO ORDER
  - Prayer
  - Pledge
- II. ATTENDEES
- III. ANNOUNCEMENTS, if any
- IV. CONSENT AGENDA
- V. REGULAR BUSINESS
  1. Field Projects - Mark Osmer
    - use of water storage tank #125 with Spring & SR Well - finalize
    - new service lines progress update
    - tank #450 repair cover, new air vents, welding requirements, Rule 309-545
    - Commercial Plaza 2" meter
    - main line water system redundancy (loop)
  2. First Review SPE PH 1
  3. Financial Update - Danielle Stirling
- VI. DISCUSSION
  - Utah Auditor General - Report on Utah Water Use 2015
  - DDW Indoor/Outdoor Water Use - Long-term Evaluation Study 2015
  - meter water use for non-emergencies
  - floater taps 2015, UCA Title 73-1-4, 2014 & 2015 Call on Virgin River and Tributaries
  - construction of WCWCD Reservoir at Anderson Junction - effects on LDWA
  - LDWA Rules to expand definitions, terminology IAW DDW/DEQ - Karen
- VII. ADJOURNMENT
- VIII. EXECUTIVE SESSION

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Posted Tuesday, July 28, 2015 on [www.ldwautah.org](http://www.ldwautah.org) and Leeds Post Office.

Shareholders are welcome to bring comfortable seating when attending LDWA meetings.



**LDWA BOARD MEETING MINUTES**  
**SEP 30, 2015**  
**LDWA Office, 1901 Silver Reef Drive, Leeds, UT**

**I. CALL TO ORDER – Elliott Sheltman**

Roll Call - Elliott Sheltman, Ron Cundick, John Markovich. Jim Vasquez & Danielle Stirling were excused; Mark Osmer, Field Operations; Karen Markovich taking meeting minutes.

**II. ATTENDEES –** Glen Carnahan, Alpha Engineering and Rick Sant - Silver Pointe Estates, LDWA engineer Karl Rasmussen of Pro Value Engineering.

**REGULAR BUSINESS**

Karl Rasmussen presented the engineering studies for the Capacity Analysis & Feasibility Study that is required for new subdivision developments in accordance with Utah State Rule 309, with the size of this development (105 lots). Because of the development size of 105 homes, as is needed because of the Silver Pointe Estates (SPE) planned development for 105 homes.

Karl presented his plans and did a review of the SPE Construction Drawings. His requirements for corrections to the SPE drawings included:

- Plans need to be stamped by a licensed professional engineer.
- Sheet 2. Change 'Town of Leeds' to 'LDWA'.
- Sheet 3. Change 2" to 6' on trench detail.
- Sheet 7. An 8' C900 PVC water line looped from Silver Reef Estates by the Rice Bank Building at 1901 Silver Reef Drive is required for SPE Phase 1.
- Sheet 15. Change 2" to 6" trench details.
- Sheet 16. Change the meter box detail to show the 18" diameter barrel with the metal ring and lid; correct the Fire Hydrant detail to show Kennedy 18-D Fire Hydrant.
- Furnish as-built drawings to LDWA after construction is completed.

**Karl Rasmussen asked Glen Carnahan** to resubmit corrected plans to him via email [karl@pv-eng.com](mailto:karl@pv-eng.com). **Karen asked that they cc LDWA to keep the Board in the loop. Once all issues have been corrected and approved,** Karl will notify SPE to submit two (2) sets of completed construction drawings to LDWA for Karl's engineering approval. One set of stamped plans will be returned to the developer and one set will remain with LDWA for onsite inspections. The need to address the storage tank for SPE as Silver Reef Highlands Tank was purchased and installed by SITLA and SRH for their developments, & cannot be included in SPE's plans to serve that development. A storage tank will be required for the SPE Subdivision. Karl said they will also need to verify that the 105 AF of water rights they transferred to LDWA in 2010 all have clear title.

**Rick Sant:** "The point is, that since we were approved for 105 lots, you want us to have 105 shares, and I think we are pretty close to that - have you talked to your atty? - I don't understand all of the legal things that they are doing -

**Elliott Sheltman:** "We'll contact our atty tomorrow. I know we need certain things to show proper ownership of the water."

**Rick:** "Since I sent the email to Karen a couple of weeks ago, they have the deeds - I guess what they are trying to do is go out and anticipate anybody that could ever claim that they have water, and then they are giving those people quitclaim deeds for any water rights that think they may have - they don't think they have the water, but they are getting them quitclaimed to LDWA. We are also working with Roger Sanders who is getting them [QC deeds] and giving them to our attorney who is giving them to your atty, and hopefully your atty will recognize that what we have done has proven our water rights so that you can recognize 105 AF as being good. So far we haven't run into any problems."

**Elliott:** "We will contact the atty."

**Karl:** "I just want to make a suggestion - before your project begins, the state is cracking down pretty heavily on new subdivisions going in and making sure that they get plat approval from the State before they begin any work on them and the water systems. I'm going to turn this in [DDW/DEQ engineer Paul Wright] tomorrow after I review this, and let him know that this is for the Capacity Analysis for the city. He's going to make his own determinations when he reads that, and he's going to let us know."

**Rick:** "Elliott, you got the letter from my [Remediation] engineer Earth Fax, concerning the trenches and all that?"

**Elliott:** "We got that, it didn't answer our question - we've contacted the State Engineer [DEQ David Bird] - what we are looking for is where else in the State have they done this: put waterlines in the ground where there is mercury and radioactive rock, because it will give us a head start on what we need to do if we can talk to someone who has already done it."

**Rick:** "Okay."

**Elliott:** "What you gave me is helpful but it is more for the requirements for when they are actually doing the work. We are looking for areas with radioactive rock or mercury, and we can't find any place where that has been done. If you can find somewhere where they have done this in areas where mercury or active uranium rock have been cleaned up, it will be very helpful going forward. Karen also wrote to David Bird 2-1/2 wks ago and we've not heard back. If everything goes smoothly, when do you plan on beginning your development?"

**Rick:** "Before the first of the year [2016]. We have to record our map, we have to get our plans signed off and we anticipate - let's say we solve this next week - why then, it could take us anywhere from 3 to 5 weeks to be out there grading and doing the improvements."

**Elliott:** "Do you have any idea when the State's going to come back with an approval on your cleanup?"

**Rick:** "I push them every week and beg them to get on it. They had a meeting with our environmental engineer, Rich Wright, and he met with them last week. They went over everything and we are doing everything in our power to try to get them to move, and do something - they are just taking forever. Every time they want something, we respond and give it to them, and it takes them 1 or 2 months to get back to us. But there again, I anticipate having something certainly before then end of the year; that gives us 3 months. As soon as we get that we will give it to you. And I'll check with the State - they would probably know better - and see if they have a project where they did a cleanup and are now trenching through it."

**Rick:** "As far as the trench is concerned, we were out there doing the cleanup and doing all of that work, I was out there for 6 months with them everyday, involved in it and -"

**Elliott:** "I'm thinking more about pipes laying in the ground and what effects there may be over a long period of time. It would save us time having to do it if it has already been done and they could come back and say 'here's what we did'."

**Rick:** "Yes, that's a good idea. All right then. Thank you."

**Ron:** "So if they are digging a trench and the remediation is all done, does anybody look at the stuff they're doing now, or do they assume it's all clean?"

**Elliott:** "I don't know; we are going to have to hire someone to tell us all of that."

**Ron:** "Seems to me [pointing to the map] that just because you cleaned it down here, you still don't know what's up over there."

Mark asked if we should take soil samples from where the pipes are going? Karl suggested they import sand bedding, not use any of the area screen stuff, and place a PVC liner over it, or something like that. Mark said that won't stop radioactivity - he talked to Terry Smith from Rural Water Association and Terry said there is special coated duct pipeline they might be able to use, that's really costly.

Elliott said the State of Utah has been keeping track of radiation since about 1995 and we cannot find anywhere in the state where this has been done. So what we are going to have to do is bring in an expert -we are looking for one - and they are going to have to tell us what is necessary, or if it's even possible to do it. Mercury can be a problem as it flows to the lowest point, and trenches are a weak spot. Mercury will flow right to the lowest spot. We could easily have mercury flowing down to our pipelines.

Karen said she's researched the DEQ Voluntary Cleanup Programs (VCP) that are recorded with the state, numbering over 85 sites, and not one has been cleaned up for mercury or radioactive uranium ore, much less both elements.

Ron said he wants the State to understand that water pipelines are going in ground where it has not previously been done. Karen spoke with David Bird [DEQ] in June and he was not aware water lines would be installed within the cleanup area. He said LDWA's water lines are on Silver Reef Road. [\*Note: see attached telecon notes Jun 17, 2015], and that leads to the question of whether the State DEQ is actually aware of what is going on.

Ron wants the State [DEQ] to understand that this is going into an area that has not been cleaned up. Elliott said we do know that the area was far dirtier than they originally thought.

#### **FIELD STATUS REPORT- Mark Osmer, Senior Field Operator.**

Repair of Storage Tank Cover, Air Vents, welding per Rule 309. The inter-structural welding completed.

Meter Sensors – we purchased 50 sensor wires to keep in inventory for repairs on meter wires that the pack rats have chewed through the wires.

Quality Water Test Reports – Bac T testing passed after the welding project was completed.

DDW Sanitary Survey October 2015 – is scheduled for Oct 22-23, 2015.

Oak Grove Pine Valley Mt, Forestry Fire Mitigation – LDWA. We used 105,300 gallons for the entire mitigation. Elliott said this could be something where we could have a viable reason to install a fire hydrant.

**V. DISCUSSION** - John said he thought he read there are areas in NV where water lines have been installed above ground in locations of radioactive ore. Ron would like to see us bring in a geological expert now, to pre-empt claims of stalling by the developer.

Ron asked Karen to get an update on the principle and interest balances of the DDW Loan #3F138 Project Upgrade for the next meeting.

**VI. ADJOURNMENT - 8:45 pm, Elliott Sheltman.**

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Approved 2016.01.07 LDWA Bd Mtg

**LDWA BOARD MEETING MINUTES  
OCTOBER 29, 2015  
LDWA, 1901 Silver Reef Dr, Leeds, UT**

**I. CALL TO ORDER** – by Elliott Sheltman at 7:05 pm.

**Roll Call.** Elliott Sheltman, Ron Cundick, John Markovich. Mark Osmer, Field Manager, Karen Markovich taking meeting minutes. Board members Jim Vasquez and Danielle Stirling were excused.

**Prayer.** Led by Ron Cundick

**Pledge.** Led by Elliott Sheltman

**II. ATTENDEES.** Karl Rasmussen, Pro Value Engineering, LDWA engineer; developer Rick Sant & Glen Carnahan, Alpha Engineering for Silver Pointe Estates; Ian Crowe representing Alberta Pace.

**III. ANNOUNCEMENTS.** None

**IV. CONSENT AGENDA.** Meeting Minutes were not completed for tonight's meeting and will be presented at the next meeting. Motion by Ron Cundick, second by John Markovich, all aye to approve tonight's meeting agenda dated Oct 29, 2015.

**V. MONTHLY REPORTS**

**1. Field Report & Projects - Mark Osmer.**

We passed all Bac-T tests, and tests have been successful since August 2011. We continue to repair and upgrade service lines, most recently on Silver Hills Road & Silver Reef Road. #450 Tank repair & welding of the side and cover is completed and we plan to paint the 4 new air vents. A new ladder will be installed, which will require the tank to be drained; we plan to do that this winter.

The recent heavy rains resulted with washed areas in El Dorado, the debris and sand have been cleared. Elliott asked if there is something we can do to improve that area; Mark said it's a result of the sand base in that area. Additional rocks can be added, but in heavy rains such as this, there is no fool-proof way to prevent the sand from washing away.

We are in the process of our Sanitary Survey, and there are a few minor adjustments to complete next month. The auditor provided Rule 309-105-12 and is now requiring LDWA to adopt an ordinance for cross-connections, hold at least one public seminar each year, document all events, meetings and seminars to prove compliance with the Rule. Mark will talk with Rural Water Association Utah (RWAU) Senior Field Rep Terry Smith to verify details of what we need for our system.

## VI. CONTINUED BUSINESS

1. **Silver Pointe Estates Progress Report - Rick Sant, Alpha Engineering.** Rick Sant brought his corrected plans for SPE Phases 1 and 2. The most significant change is the inclusion of the looped pipeline in Phase 1 rather than in Phase 2.

**Rick Sant** said he's working with Leeds Town & Washington County to work out the intersection up at the Silver Reef Museum. The new road will come out across from Wells Fargo Drive at Silver Reef Drive, creating a 4-way intersection.

As the land belongs to the County, he will work with the County and the Town of Leeds on that design. Ron Cundick asked why the County would be involved; Rick Sant said they own the land and they have to grant approval. Rick said today he met with Leeds Mayor Wayne Peterson and Leeds Town engineering firm Sunrise Engineering, and they indicated he will need to get an easement from the County. "We have to get easements from four people in order to get the right of ways in there. I wanted you to know we are working on that."

**Elliott** asked [referring to the Plans] how large the septic system would be and what it will look like. Elliott asked again how large it will be. Rick said it's all underground, pointed out the leach field and the buried tank, and "everything flows by gravity into the tank and then is pumped out into the leach field. It will take care of the 19 homes (Phase 1), until we get a permanent sewer wastewater treatment facility in, and then as soon as the permanent one is in, the septic system will be taken away and these [pointing to the location of the septic system] will become residential lots. We will go ahead and build homes on them."

**Elliott** asked where the permanent sewer system will be located.

**Rick Sant:** "It's not just for us, it's for the whole area; there are 3 other property owners that I'm working with, and we think it's going to be located over in the grapevine area. We will all have pressure pumps and we will pump it up the hill and then it will--" --- (inaudible; everyone talking at once).

Elliott asked if their drawings include the location for the sewer system and asked to provide LDWA with a set of plans. LDWA engineer Karl Rasmussen requested an email copy to be included in his review. Rick said they can certainly provide LDWA with a copy and said they have submitted it to the city and the city submitted it to the state. The State has basically approved it and will send the license to the Town. The plans show the leach fields in detail and there is a copy at Town Hall."

[note: Board, it sounds like your discussion switched from the Sewer System Wastewater Treatment Plans for Phase 2, to the Septic System Plans for Phase 1? Please clarify, thanks].

**Rick** said it will take them at least another 2 years to get the new sewer system installed and once it is completed, they will abandon the septic wastewater treatment system and return the parcels back to residential lots; there are 3 buildable lots encumbered by the Phase 1 septic system.

**Karl reviewed plans for Phases 1 & 2.** Rick identified the property owners from whom he will need to obtain easements: Ray Crosby in Bonanza Flats, BLM, SITLA, Washington County. Mr. & Mrs. Wells & Arlene Green indicated they will not consent to an easement through their property.

Karl said whenever there is a requirement for a looped water pipeline, the rights-of-way/easements must be completed and resolved first. There are two ways to do this – you can dedicate the streets for the future streets, or obtain easements until such time the road is completed. The road would then be dedicated as a Public Utility Easement (PUE). Karl said the easements need to be in the names of both LDWA & the Leeds Town, and once the road is built, it can be dedicated to the Town and becomes a PUE.

Karl noted he was surprised that the Town engineer did not require the curbs be included on the drawings as that specified in the Design & Construction Specifications & Standards (DCSS).

Karl said he cannot sign off on the drawings until all corrections, including all the rights-of-way, have been completed and included on the drawings. Rick advised that's going to take some time, because they'll first have to get it designed and then e grnted approved by Leeds Town and the County.

Karl said in the interim, we can be of help, and provided a copy of DEQ's Rule 309 (from DEQ Paul Wright's office) that will need to be included in the SPE review. Rule 309 requires that all materials that will be in contact with drinking water must be in compliance with the State's approved materials list and included within the construction specifications.

**Glen Carnahan** asked if LDWA had adopted DCSS; LDWA confirmed yes, based on the St. George DCSS also adopted by the Town of Leeds. Karl said Rule 309 is not referenced in the DCSS, the rule is an additional requirement.

**Glen was not aware** that an SPE Project Notification Form (PNF) & a set of construction drawings had been previously submitted to DEQ Paul Wright on Oct 24, 2013 by former Alpha Engineer Kade Bringhurst. On Dec 3, 2013, Paul Wright provided Alpha Engineering a 3-pg letter of requirements, and Paul told Karl he has not heard back from them since that time. *[ref: Paul's email to Karl dated Oct 1, 2015, stated he had not received further communication from Silver Pointe Estates and asked whether he knew if they planned to move forward with their development.]* Karl said it's good they are doing this, because it's helping us. Nothing has come through Leeds for several years and he appreciates their cooperation.

**Karl reiterated that he cannot sign off on the plans until all corrections and the rights of way for the looped pipeline are included, and it will need to be completed by SPE.**

**Rick:** "So we'll finish up and make the corrections, and get them to you for signature, and then when we get the easement -- why, you can sign them off."

Rick said they will provide 2 sets with the corrections; Karl said they will need to have the approved plans on the jobsite when the move forward.

**Karen reminded them to please keep LDWA in the loop with communications and documents.**

Elliott asked Rick if he has made payment to LDWA for the invoice submitted to him on Sep 30; Rick said he'll check on it and get back to us.

Regarding the DEQ's Voluntary Cleanup Program (VCP), Elliott asked Rick if he's received the DEQ's review of his cleanup remediation plans.

**Rick:** "I talked with David Bird today, trying to get them to finish that up – it's like pulling teeth, trying to get anything done. We finished that about 8 months ago; turned our first report in about 7 months ago; corrected that and gave it back to them in July [2015]. We've been waiting since July to get comments back on that; I'm in hopes we'll have it done by the end of the year."

**Elliott:** "But they haven't indicated a date?"

**Rick:** "No, they won't give you any date whatsoever. They just tell you how busy they are and overworked."

**Elliott:** "I know I asked you – I don't know if you've found it – something on the cleanup – where we could find somewhere in the State where they've done this; have you found anything?"

**Rick:** "I've prepared a report on that just to summarize this (*his report will be included with the minutes*). I've asked them [David Bird, DEQ] three times to come up with something that would be similar to what we have, and basically everything that has been done is not a residential development like we have. They said there really isn't anything similar that we could work with you on. For example, they have a cleanup that is underneath a road, and so the material is there underneath the road, and so they have guidelines so that when somebody goes in there to do any work, they have to use certain precautions because the materials there –"

**Elliott:** "As far as working on it [the road]?"

**Rick:** "Yes. We are just the opposite, we went in and cleaned it all up and tested it, and provided a clean corridor for the utilities to go in, and there shouldn't be any problem with it."

"In fact, myself, my engineers and workers - we worked there for 7 months doing the cleanup work, spent over ½ million dollars removing all of that material. We had badges on and everything to indicate if anything was dangerous; we never had any badge indicate anything that was even close to being dangerous. So if we can go work in it for 7 months, 5 days a week, and not have any exposure, I really don't think your workers are going to be exposed to anything that would be harmful to them." *[question for the board – what was the function of the badges – what did they read? Were they for radon, dust levels, or what?]*

**Elliott:** "I don't know if you remember awhile back, we asked what we'd like to find is somewhere where waterlines have been put in the ground in an area like yours that has had the same cleanup through the VCP, like we going to be doing here. We've asked David Bird at the State DEQ the same question, and they haven't gotten back to us, we were supposed to get it last week. We will keep looking on our end. Like I've said, it's more the question of what happens when the water pipelines are static in the ground, with the materials that are around it. It would be very helpful if we could point at that and say it's [been done before]."

**Rick:** "But the material around it should be clean, in other words, we've spent a lot of time and effort to remove the contaminated material, and I don't think you're going to run into any."

**Elliott:** "We understand; when you do find out about the remediation please let us know, as it will be helpful for us also."



Elliott asked about the water rights brought over from Sant & Crocker in 2010, originally believed to be free and clear of encumbrances. Sant said he spoke to his attorney Rick Knuth today, and he thinks Knuth and LDWA atty Hartvigsen are working on a way to solve the problem. Sant said he 'realizes that LDWA is in a problem, and we are in a problem, and we would like to get together and work on it.'

Elliott said we would like to see it resolved as quickly as possible. Sant said he thinks they've come to a resolution; his attorney Knuth discussed some of the things with Sant, and he really doesn't have a problem with what was discussed.

**Elliott:** "There is one more issue I'd like to address. We received an email from our attorney David Hartvigsen based on a telephone conversation David had with your attorney, Rick Knuth. I'd prefer not to bring this up; but I'm going to have to".

*Hartvigsen wrote: "I received a call from Silver Reef's attorney, Rick Knuth, on Monday afternoon. He was very frank about his client's concerns and directions. He said Rick Sant has reason to believe that LDWA is stalling in hopes that all of his approvals will be lost at the end of the year."*

**Elliott:** "I would not bring this up just to discuss that, but because of the following information, it now needs to be on public record.

*"Mr. Sant has heard, second or third hand, that Elliott has allegedly been telling people that he is going to stop this development project. Mr. Sant therefore believes that the lack of providing: (1) a quit claim deed form; and (2) either an acknowledgement that they are still in good standing under the old agreement or a draft of a new agreement to replace the old one, is clear evidence of that intent to stall until the end of the year when their other building approvals expire."*

Elliott asked Rick if that is something he actually said, and Sant replied that yes, he had.

**Rick:** "I feel that – let's talk about some of the examples – first of all, when we first submitted our plans --"

**Elliott:** "Before you continue, let's address what was said - who did you hear that from – who said that I'm going to stop your development?"

**Rick:** "Oh, I've never heard that at all, I have no knowledge that you have said that to anybody. All's I told him [Rick Knuth] –and it was about a month ago - is that this is getting really frustrating, we've done everything that we can to get this water rights situation resolved, and it just seems to me like it's stalling. I said it appears to me as though there are some ulterior motives going on there to keep stalling our project, to keep us from developing the land. I said it just doesn't seem right to me, why isn't this moving forward? He [Rick Knuth] may have been a little bit aggressive in his talk to David [LDWA's atty Hartvigsen]."

**Elliott:** "Are you talking in relation to the project, or the water?"

**Rick:** “Well, the water is the project, without the water and without the water rights, we lose our will serve letter, and if we lose that, why, then - we can’t record our map, and if we don’t record it by the end of the year, why, then - we lose our map and we have to start all over again. I was just getting very, very frustrated that this whole thing was leading towards that.”

**Elliott:** “I think looking at the timeline of all of this, I don’t see where anyone could point at this and say that we are stalling. I want it put on the record that LDWA discovered the problems with your water rights, and at that point\* your attorney made claims to Karen that the water rights were fine, and there were no problems with it. We found the problems with your water rights, and long term I think it’s a good thing for both you and us – “

**Rick:** “Well, who brought up the problem?”

**Elliott:** “The problem originated when, the person you purchased your water from [Roger Sanders], and the water that Sanders brought to LDWA was taken away – almost 200 acre feet – because of Sanders lack to make payments to his seller.”

*\*Pertinent information not discussed during the meeting: On April 15, 2015, Rick Sant emailed LDWA the following: “Karen, I also want to let you know that we have hired an attorney to investigate the water we deeded to you. I keep hearing that some of the water that was sold over the last five years has a clouded title. Before we go any further with our project, we want to make sure the water we deed to you is good. So you may be contacted by our attorney to ask some questions. - Rick”*

*On May 5, 2015, Sant’s atty Knuth contacted LDWA and made recommendations to Karen that it looked good to him via telephone call. See attached documentation.*

**Rick:** “I mean, did somebody come forth and say, ‘wait a minute, that water belonged to me, they did not have a right to sell it to us?’”

**Elliott:** “No. We were holding about 400 acre feet of water, and about ½ of it was yanked out from us. LDWA cannot wait around, and your water also came from Sanders; we don’t guess or assume, or play around with our Shareholders’ money. We were forced to check it out, and even though your attorney represented that it was fine, our attorney found it had clouds and defects. The timeline on that is what it is.

We discovered the issue, and I think we can show to anybody that we’ve worked really hard on this project. Karl has cut away a lot of his other things he’s working on to make time for this project. We started this about 3 months ago (Sant concurred). If we are getting this done by the end of this year, we are probably getting this done in about ½ the time it normally takes.”

**Rick:** “Well anyway, if I misjudged you, I’m sorry; but I never told anybody that you said that to anybody; I just said it appears as though this thing is getting bogged down and I can’t understand why, because there are no other subdivisions going on in the Town.”

**Elliott** said he believes we are working quite quickly, and it is not bogged down; Sant agreed and said he thought so too, and again apologized for misjudging.

**Elliott:** “Can you do me a favor, then, and talk to your attorney about this, because I’m on the Leeds Town Planning Commission, and as I’m currently running for Town Council, I don’t need this sort of misrepresentation out there in the public. If you can do that, I will forget about this.”

**Rick** agreed to talk to his attorney.

**Karl said Paul Wright, DEQ engineer,** sent his review of Karl’s Capacity Analysis report for Silver Pointe Estates, and Paul has a few things that need to be addressed. The analysis was completed for 2 peak instantaneous flows and Paul wants to see all 3 scenarios for peaks. Karl said the DEQ is getting tighter on compliance with water supply regulations of throughout the State.

Karl said we need to discuss the water storage as we have current limitations, and determine together how we want to take care of that issue. He reminded them that Silver Reef Highlands & SITLA were required to bring in a storage tank for their development and we should address how SPE plans to store water.

Corrections that need be included are the construction drawing notes; Karl can write a letter for SPE; SPE needs to meet the requirements on the other 2 issues; Paul Wright will then review their plans.

**Paul Wright’s review** on the capacity and storage must be addressed and Karl will submit that once completed. We can then confirm LDWA’s actual storage capacity with Paul Wright.

Sant acknowledged the tank will require adequate elevation to meet the flow requirements. Karl said the best location is in the area of the existing tanks; there are a couple of other possible locations they can discuss. Karl will calculate LDWA’s current capacity and what will be needed to serve the SPE development.

**Rick Sant asked if they need a new tank for SPE Phase 1 – Karl said he recommends it;** the build-out of 105 homes will require at least a 120,183 gal tank. Sant said they were in hopes that they wouldn’t need a storage tank for Phase 1, as they have an awful lot of money going out up front just for 19 lots. They’d rather do the tank when they get to Phase 2, and said he’d appreciate it if we could look at that and see if it would work. Karl asked what procedure LDWA has for collecting money up front from developers. Elliott said LDWA has always required the tanks up-front and are based on the build-out totals as was done with Silver Reef Highlands/SITLA development. Rick mentioned if they could pay up front, then the impact fee would already be paid. *[note: LDWA does not have a policy for ‘credits’ to apply impact fees, LDWA impact fees increase by \$20.00 each month as based on WCWCD fee schedule.]*

**Rick said it will take at least a couple of months to get the easements completed.** There are several steps: (1) they will need to design them; (2) the Town & County need to approve them; (3) the individuals need to sign them; & (4) we need to record them with the County. Easements are needed from Ray Crosby, SITLA, BLM & the County.

## 2. **Majestic Mountain Rd Subdivision Development - Ian Crowe representing Alberta Pace.**

**Ian Crowe** asked if we were still waiting to work things out regarding Alberta’s water rights and if she will have the same requirements as that with SPE. Ron Cundick said while Alberta’s development is not the same as Rick Sant’s capacity is an issue for her development based on the Capacity Analysis completed in August of this year. Ian said Alberta is looking at the 3-acre

commercial parcel currently for sale on N. Main St, and she may want to buy it to construct a wastewater treatment system called the Air System.

**Elliott** said we no longer accept quitclaim deeds and Alberta will need to bring it over as a warranty deed. Ian asked if the lawsuit is affecting all of the water rights [from the 2010 Agreement]; Ron replied he believes so, [all the water rights came from the same source, Roger Sanders, and is questionable whether all of the water is at risk]. We thought we had 400-acre feet of water and we lost ½; now we think we have 200-acre feet remaining. Ian added that another lawsuit could come up on any of the remaining water right, and thought the current Shanto/Weeks lawsuit did not include WR #81-1752; Roger Sanders represented to them that it was not included. Karen said 81-1752 was referenced in the Weeks cross complaint court document received a month ago; we should have an update from the courts within the next 1 to 2 weeks.

**Ron** said from his standpoint, the Warranty Deed will need to be warranted personally by Alberta Pace and not by an LLC. Karen said the water will first need to be segregated into a new water right number, and we'll require a development agreement with Alberta for her subdivision. Alberta has completed development agreements in the past with LDWA and she should be familiar with them. Ian said Alberta will probably wait for the Summary Judgment on the Shanto-Weeks lawsuit before completing the transfer. Once that is completed, she would like to move forward immediately.

**Motion by Ron Cundick, second by John Markovich, all eyes to accept a water right transfer to LDWA after all requirements are met.**

The requirements include: (1) segregation of the amount of acre-feet of water owned by Alberta L. Pace [from Water Right #81-1752] to a new water right number to be assigned and recorded by the Division of Water Rights; and (2) recordation of the segregated Water Right with the affected county(ies), in this case Washington County, UT; and (3) transfer of the segregated water right number to LDWA by Warranty Deed personally warranted by Alberta L. Pace; and (4) recordation of the Warranty Deed and the DWR *Addendums to Land & Water* with the Division of Water Rights; and (5) recordation of the Warranty Deed and the DWR *Addendums to Land & Water* with the affected county(ies), in this case Washington County; and (6) a development agreement for the proposed subdivision that includes LDWA's policy for Time Certain of development and storage capacity of water rights.

3. The Board discussed the Floater Taps originally assigned in 1979 and agreed to issue a letter to the remaining holders of the taps regarding applying them to use. Ron agreed to write the letter and the Board will send out in January 2016.

**VII. ADJOURNMENT at 8:35 pm by Elliott Sheltman.**



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Karen Markovich, Corporate Secretary/Administrative Manager