

**Summit County Service Area #3  
Public Meeting and Public Hearing  
September 20, 2021, 5:30 P.M.  
629 E. Parkway Drive, Suite 1  
Park City, UT 84098  
(435) 649-7949**

Please silence all electronic devices

Topic	Time	Presenter(s)
<b>1. Welcome and call meeting to order (motion/voting):</b> a. Roll call b. Review board meeting minutes of July 19, 2021* and August 23, 2021*	5:30 pm	Vince
<b>2. Public Comment</b> – comments limited to three minutes each	5:40 pm	Public
<b>3. Administrative &amp; Financial (motion/voting):</b> a. Board training requirements and certificates* b. Dashboard review* c. Review and approval of expenditures* d. Quarterly newsletter* e. Little Library	5:50 pm	John, Nathan, and Larry
<b>4. Road and Trail (motion/voting):</b> a. Pothole update b. 2021/2022 roadwork c. Traffic calming measures d. Earl Street e. Crosswalk painting	6:45 pm	Chris
<b>5. Water (motion/voting):</b> a. Well meter status* b. Greenfield Arsenic building c. Silver Bullet replacement tank update d. Water dedication application revisions e. Water dedication update	7:30 pm	Chris, John, and Nathan
<b>6. Closed session (reasonable imminent ligation per UCA § 52-4-205(1)(c))</b>	7:45	Vince
<b>7. Adjournment</b>	8:15 pm	Vince

\* Documents provided | Minutes, agenda and policies available at: <http://summitcounty.org/923/Documents>

\*\*Any motion/voting will take place in open meeting after closed session

**Summit County Service Area #3**  
**JULY 19, 2021**  
**UNAPPROVED MEETING MINUTES**  
**BOARD OF TRUSTEES MEETING**  
**629 E. Parkway Drive, Suite 1,**  
**Park City UT 84098**

**BOARD OF TRUSTEES**

Vince Pao-Borjigin, *Chair*  
Suzanne Carpenter, *Vice Chair*

Scott Sharp, *Treasurer*  
Paul Kraus, *Clerk*

Henry Adams  
Hally Hanssen

Larry Elbert

**BOARD Present:** Scott Sharp; Paul Kraus; Larry Elbert; Suzanne Carpenter.

**Absent:** Hally Hanssen, Vince Pao-Borjigin.

**STAFF:** John O'Brien (General Manager); Eileen Haynes (Assistant Clerk).

**CONTRACTOR:** Chris Bullock (Roads Master/Water Operator); Nathan Bracken (Legal).

**PUBLIC:** John Hansen.

**ELECTRONIC:** Suzanne Carpenter.

**1. Welcome and call meeting to order (motion/voting):** CALLED TO ORDER AT 5:36 PM

a. Roll call: *completed.*

**2. Public Comment**

- John Hansen (SL-H-512): John questioned the requirement to have a backflow inspection. He said there is a backflow preventor on the meter at the street so why is another inspection necessary farther down the line. He doesn't have a sprinkler system at the house. He is retired from the fire department, and he is familiar with backflow preventors. Chris replied that back flow preventor inside your house is what we want to see inspected annually. We are meeting tomorrow at 10 am to review your system. The backflow preventor at the meter is a single check. It is SCSA#3's meter and SCSA#3's check valve. In the example that you shared about a garden hose in a bucket; it's going to suck into your house before it comes into our water system. John replied, it won't come into your system because you have a check valve there to prevent that already. Chris replied we are trying to keep the water safe for you as well. John replied he doesn't like government telling him what kind of water he can have in his house. My toilets could overflow which is serious. We will figure this out tomorrow. The main thing is to keep the water safe for the community, correct?

Suzanne asked is there a code that comes into effect? John H noted SCSA#3 does not have a licensed backflow inspector at this time. John O replied we will have a licensed inspector shortly. Chris replied there is a code. Nathan replied it is a state code. If you have a backflow preventor that satisfies the State requirements, then we are good. John H replied SCSA#3 installed a backflow preventor on the remote meter. There is a manhole with a backflow preventor on it to prevent water going into the Silver Creek system. Chris replied that backflow preventor is the Service Area's above and beyond what is required for John H at his home.

John H stated at his other property at 775 Westwood with a well and there is no meter. How many wells are in this system that are required to have a meter and how many have installed the meter? John O replied, in the upper section there is 199 properties with a well that are required to have a meter and 49 of them have installed the meter.

John H stated he is entitled to 1.0-acre-feet of water which is 375k gallons per year. If he doesn't use that full acre-foot and only uses, for example, a half-acre-foot, are they going to take the other half-share away from him? Is that guaranteed? If you don't use your 5.0-acre-feet or 1.0-acre-feet every year he believes, they can take it. Nathan replied you are talking about abandonment or forfeiture which is a real concern if you are not a public water supplier. Public water suppliers are exempt from abandonment and forfeiture. Your 1.0-acre-foot water right is with the Service Area which it owns it in trust for eligible lots with wells. You may divert 1.0-acre-feet under the Service Area's water rights, which is a public water supplier, so our rights are not subject to abandonment and forfeiture. If you don't use your 1.0-acre-foot it is not going to be taken away.

John H stated he thought there were properties without any water shares. Nathan replied there are some. John H asked can he transfer a half-share to somebody else if he is not using it? Nathan replied, no. They can buy water shares and bring it in. Most of the wells in the upper lots are entitled to 1.0-acre-feet from the Service Area's water rights. There are some lots that have additional water rights that they bought themselves or that are dry lots that aren't entitled to service from us. If someone needs more than 1.0-acre-foot of water, they can use their allocation from us and they can bring in their own water rights. Either way, state law requires that if you are diverting your water, you have to have a meter on it.

John H stated he doesn't use anything close to an acre-foot. Nathan replied you are not going to lose it. You will still have your allocation. John H stated when he bought the Beehive property, he had an acre-foot of water. It was cheaper for him to connect to the Service Area water system. He got a notice in the mail from Weber Basin that they were taking his water share. Nathan replied what you had, it sounds like, was not a water right but an exchange application. That is a contract that allows you to use an acre-foot of Weber Basin's water. They can cancel that contract if the water is no longer being used. When you rely upon Service Area water rights, your water allocation is not subject to abandonment and forfeiture.

John H stated we used to pay \$40 but now we pay salaries and have an office; we have expenses we never had before. How many people are on the culinary system? John O replied 205 connections. John H asked will we continue to get 20k gallons each month? We use about 6k gallons each month and no irrigation. Nathan replied the upper lots, serviced by individual wells, get 1.0-acre-feet. The lower lots, because they are smaller, they were given .75-acre-feet, 20k gallons and that is staying the same. The reason why we have those allocations is because it is extremely difficult to acquire new water rights. We said we are going to take what we have and divide it up equally amongst these lots. As long as people stay within their allocation, we will have enough water for everybody. Nathan doesn't know if that can be changed. If we move away from that, some people may use less but some will use more. We can't get any more water. There isn't any more water to acquire in the Snyderville Basin.

### 3. Administrative & Financial (motion/voting):

- a. Board training requirements and certificates: John reported no changes from last month. One person is out of compliance. Everyone else is in compliance.
- b. Dashboard review: John stated comparing June through July, there is not too much of a change. Scott stated there are times we have fluctuations that don't make sense. **John was wondering if we need a 'delta' column so you could quickly ascertain differences, but Scott doesn't think it provides enough benefit.**

Suzanne asked, regarding capital reserve, as we were talking about the roads, we had money in the general fund we were going to transfer into capital reserves. Did some of that not happen and that's why we are sitting on \$644k in the general fund? We want to know if capital transferred from 2018, 2019 and 2020. Scott replied we won't transfer it out until we spend it. John replied we talked about it, but we didn't have anything showing a transaction had occurred. John stated at the end of every calendar year we are going to have to transfer money in order to balance the budget. **The question we have to figure out is whether that happened in 2020.**

Suzanne suggested staff ask Marla about tracking spending year-to-date. It was current spend vs budget. Scott suggested it might be in Pelorus. **Suzanne stated Marla is still an approved vendor and suggested we might have her come in and set it up.** She had a nice excel spreadsheet that we followed quarter by quarter. She knows our systems and our accounts. **John replied he will reach out to Marla.**

John stated in our connection services summary we have tried to identify what lots have a well. That resulted in a lot of changes. He always used the count of 510 but the parcel list provided by the County indicates we have 585 parcels. There is a difference between the parcels and the lots because some of these lots have been subdivided which may be why the number is higher than we thought. He has tried to account for 585 parcels, and he could not do so.

Suzanne stated let's walk through it: we have 205 lots on the culinary system, 28 empty lots, 89 unaccounted parcels is what we have to find. John stated the number of personal wells with a private water right is 50 (48

lower, 2 upper). Suzanne asked is that 50 water rights on top of the 149. Chris replied we are trying to cross-check the State Division of Water Rights map and what we have on record. John and Chris are trying to create a master document.

Nathan asked did personal wells on Service Area water rights went down from 158 to 149. John replied yes. Nathan replied, we haven't removed anybody as an approved point of diversion. John replied we don't believe 158 was a valid number. Nathan asked, people that have personal wells with private rights were 50 and you said most of those were in the lower? John replied he sees them listed as one or the other. Suzanne replied some lots will have 2 water rights: they will have a Service Area right and their own personal right. You are going to see the same in the upper. Some have purchased additional water rights because they have bigger lots, and they want to have water features and landscaping. It is an "and" situation not "or".

Nathan stated what determines if you have 1.0-acre-feet or .75-acre-feet allocation isn't whether you have a private well. It's whether your lot is in the upper or lower areas of Silver Creek. His understanding is there were some lower lots that did not want to connect to the water system, had their own water rights and their own wells. Most of them also have an allocation that they have just never been using. When they connect to the system, they will likely be entitled to use their allocation. If they have over that, they can dedicate their water rights. Suzanne added, as long as they have been paying their standby fees. Nathan agreed.

Larry asked the upper area is A, B and C and the lower area has smaller lots? Nathan replied yes; that's always been the difference in the allocation. Larry asked the new homes border the highway. Chris replied they are on Mountain Regional Water. John stated there are 64 lots that are within Silver Creek, in the Earl St area, but are not using Service Area water meaning they are using Mountain Regional.

Eileen asked if a lower lot has a well, they do not get 1.0-acre-feet? Nathan replied yes, you only get the 1.0-acre-feet if you are in the upper lots and your well is an approved point of diversion under the Service Area's water rights. The way the Service Area divides it up is if you are in the upper lots, we are not going to have a water system for you. We will list your lot individually for 1.0-acre-foot of water. If you are in the lower section, we don't have any lots that are approved to divert our water rights from a private well because all the lower allocations are diverted to the municipal system wells, so upper lots get 1.0-acre-feet and lower lots get .75-acre-feet.

Nathan stated he is surprised there are only two because his understanding was that part of the reason why they built the Westwood expansion line which allowed some of these upper lots to connect because there was a concern that those private wells were going to fail. They are using Service Area rights. All of those lots have 1.0-acre-feet allocation because they are upper rather than lower lots. **Suzanne asked, but when they come onto the public municipal water system, they would still be limited to 1.0-acre-foot? Nathan agreed. Their allocation wouldn't change.** If I am a lower lot owner and I am using my own private water right, on my own private well, some of these lots pre-dated the creation of the system. Chris agreed stating that is mostly in the lower Section E and F. We have quite a few of those private water rights on private wells adjacent to the system. Nathan stated those lots, theoretically, could dedicate their private rights over to us, could divert their allocation and their water right on top of it assuming we have system capacity. When they connect, they will be entitled to .75-acre-feet if they have been paying standby fees and they meet the other criteria. Suzanne added that was one of the ways we could tell who was a dry lot and who wasn't. If they weren't paying standby fees that helped us know they have never been allocated.

John stated Chris has spent hours on this and we have identified 72 that should be paying standby fees. We will add that to our master list. That is not the number in Pelorus. It's a lot less that are actually paying standby fees. Suzanne replied, let's finish the accounting. Getting that information, finding who has a dry lot. We started charging some people then realized they had a dry lot. Chris replied yes, on the subdivided lots but these are mainly full lots adjacent to the water line and have never been charged. They should be paying a standby fee for being adjacent to the water line. If they want to connect to the water system, they will have to dedicate their private water right. Nathan replied, no. We want to figure this out before we send anything to them is whether

they are a dry lot or not because that is one of the factors. When he and Marla went through this they came up with a kind of test to determine whether a lot was dry or not. One, but not all, is whether they have been paying standby fees? Did they pay the 1990's assessment charged all lots entitled to service? If they paid that assessment, then they are entitled too. Nathan wants to avoid send out a letter demanding a standby fee to a bunch of dry lots and not have enough water rights for them. Before you do that and when you get your final count, we will need to divide up the lots that we have by the number of water rights we have approved for the lower system to see if the math works.

Chris stated he wasn't aware of this assessment from the 1990's. Is that available so he and John can cross-check? **Nathan said he will send it to John.** That has particularly been the case with Unit I where we had most of these issues. Some of the lots were never intended to be residential. They were always commercial and so they were never assessed standby fees and they were also never assessed any of these payments. Basically, he thinks what happened in the 1990's is the Service Area realized they didn't have enough water rights and it needed to acquire more. Nathan hasn't looked at SCSA#3 records to determine what type of information we have on them. The way we set this up is if you satisfy certain criteria, payment of the assessment or it wasn't the Service Area's fault that you didn't get an assessment and you weren't assessed any of these fees plus a couple of other things. For instance, your lot hasn't been subdivided. There would be a rebuttal presumption that it is dry, but the lot owner could rebut that presumption with evidence showing – it's not the lot owner's fault SCSA#3 hasn't charged the standby fee or the lot owner did pay the assessment or the lot owner did pay standby fees – your records are just a mess. There is a process we have put in place so that the Service Area is not just determining unilaterally the lot is dry or not.

Suzanne is looking through her emails about this accounting and this whole process and the list. She found an email forwarding a spreadsheet of dry lots to Scott. He recalls seeing a folder with a document called "dry lots". Can we make this official? Suzanne replied, we to do our audit and make sure.

Nathan stated a word of caution: determining who has an allotment in the upper lots is easy because all he has to do is look at our water rights and see which lots were authorized back to the 1960's, who was approved to divert Service Area water. The lower lots are a lot trickier because they were never authorized as a point of diversion so it's more of a case-by-case fact-sensitive issue. We need to be very careful. We need to make sure we have got our information in line before we tell somebody they have a dry lot, or we start charging them fees. John replied right now we are just working on step one which is creating a database for our internal use, and we will cross-check before we start sending it. Right now, we just want that information gathered in a place.

Chris asked Nathan if there is a document that shows the lot numbers. Nathan replied Marla looked at the accounting to see, and you will have to check with her, which lots paid that assessment. There is the challenge of maybe someone having this allotment and didn't pay the assessment. There are two explanations for why someone is not paying standby fees: one is they are not entitled to water from SCSA#3 and the second is we have just 'spaced' it and haven't billed them. If it's been that long and we haven't been billing them, the chances are more likely than not that they don't have. Suzanne agreed. She went through this Marla. She doesn't think it was all the way done but she started the same process you are doing trying to get this information documented.

Chris added we have this limitation where we are only going back 3 years collecting some of this. Why, with the Bywater lot, did we go back farther than that? Is that something different contractually? Nathan asked Chris to refresh his memory regarding the Bywater lot. Chris replied it is a plat amendment over on Redden. Nathan replied they have two lots. He doesn't recall the water aspects of that. Chris stated they are trying to make it 3 lots while we are only allowing them 2 water connections, but standby fees were assessed of over \$10k. Eileen agreed. Chris added, that would exceed more than 3 years. Nathan replied, he is trying to recall how Marla came up with that. Conceptually, most of these lower lots should have an allocation but he is wary when he hears 70 lower lots haven't been paying standby fees. John replied it should be 72 that have to pay standby fees. Nathan asked have we been billing them, and they haven't been paying? John replied, no. All he is doing right

now is data-collecting so right now he counts 72 that need standby fees. Of those, he doesn't know how many are paying. Nathan replied, it has been his understanding there were relatively very few lots that do not have allotments in the lower section. Nathan stated he was never involved in doing the count – Marla was.

Suzanne stated Marla listed 29 units on water standby. She found a memo from Ben Minor from 2018. **She will forward it to John.**

John stated in the construction remodeling summary, there is one additional home under construction which is the house and riding arena on Whileaway Rd.

John stated regarding accounts receivable we still have 4 that are in the \$1k-\$5k range that haven't paid. They have been sent past due letters, but he has only heard from one who has not settled up but will work with us on it. If anyone has been making a payment, he is not including them.

- c. Review and approval of expenditures: John has no invoices needing board approval.
- d. Quarterly newsletter: John stated the summer newsletter went out last Wednesday. We did the newsletter in-house: printing, folding, stamping and the mailing. The labor was about 4 hours and the expense dropped 50%. Eileen added we were using bulk mailing and the newsletters were not getting delivered. That was the primary problem. John added we will continue to produce it in-house. It seems to be worth the investment of time. Scott stated we should see if people want to receive the newsletter electronically instead of the PDF. John replied we could tie it to the billing. We are down to 125 people receive hardcopy billing. Everyone else receives it electronically. **He requested the board submit newsletter suggestions to John and Eileen.**
- e. Personal Bond: John stated we are expecting a \$300k personal bond to be given to SCSA#3 related to Earl St projects. What should John do with that money? He and Scott have been discussing whether or not it can be deposited into an existing Wells Fargo fund like the PTIF. PTIF is asking us not to involve them. Scott added they asked for us not to ask for another account. John asked should we create a new Wells Fargo account or add it to account #6893 which is the current escrow account we have and possibly try to keep the interest separate so we know which is for this project. Nathan recommended we make a separate Wells Fargo account. That way it's all counted separately, and we avoid getting it mixed up or mis-accounted with other funds. Suzanne agreed.  
John stated if we are looking at moving to a new bank, this might be a good time to start a relationship. Scott stated we need to have a resolution to open a new account. The board members that can sign have to go in. It is not as easy as doing it online or John walking in. Suzanne stated we should draft a resolution and ready for the next meeting. John added this may be a very short-term hold. If the project goes as the builders' plan, in two months they are going to ask for their portion of the bond returned; like 90%. Suzanne stated it is really important not to commingle funds. Nathan agreed.  
Nathan stated this isn't appropriate for the PTIF. Especially for something we are holding short-term. PTIF is a fund the State allows government entities to use to invest its money. We are using public money, with a lot of strings attached to it. It is very similar to the escrow accounts where he takes a retainer which he has to keep completely separate. Since the Service Area isn't set up like that, it would be easier to just have a separate account. If we are going to get more of these, maybe we need to work with Wells Fargo to see what the options are. He is afraid, with the heavy board responsibilities, the chances of it being commingled or not accounted for appropriately are very high as well as the chance of us getting into serious trouble. No one can fault us if we create a separate account. Suzanne agreed.  
Suzanne suggested we place the check in our safety deposit box until the account is arranged. Nathan stated they are going to want to accept this bond and Nathan prefers to cash it so that we know that the check is good before we give them the okay so we may need to hold a special meeting.  
Nathan stated, we have already authorized certain people from the board by resolution to be the point-persons for the bank. Do they need a separate resolution? Suzanne replied, that is what we ran into last time with Wells Fargo. **Nathan offered to draft a resolution, but can you call them to verify that they need it?** Suzanne agreed but for new funds coming in, she doesn't think they will have a problem with it. Nathan replied, if they do, they

he wants to create a general resolution that says these board members are authorized to create new funds for these types of purposes, so we don't have to do this again. Suzanne agreed. **She added, we need to shop around for a new bank.**

Scott stated we need a resolution, all signers on the account have to go to Wells Fargo office with John. John is our General Manager. John added they put up all these obstacles. How many trips did we make?

John asked, is the personal bond going to be okay? Because this is a change to the Earl Street Contract. They want to change it from whatever type of bond to just writing a personal check and make it a personal bond. Nathan responded, from his perspective, as long as you have the money and the check clears and it's in the bank, he doesn't care who it comes from. It's their issue they weren't able to get a bond through their insurance company or other funding mechanisms. John doesn't recall what their issue was. Chris stated the bonding company wanted to treat him as a developer and he doesn't want to be treated as a developer. We had further discussion about that. He wants his personal name removed from the contract. Katherine doesn't want it removed. He wants it with his company. The original contract listed his company name and his name throughout the contract. Nathan stated if he is paying the bond, he needs to be. Chris replied he's not; he has found a secondary person to pay the bond. Should we be using his company and changing it to her name? John replied we can use a personal bond. We have to update the contract with that wording.

Nathan replied, the contract doesn't become effective until the bond is paid. Chris replied we are not letting them start and they are anxious but at the same time they continue to submit changes.

Scott stated he called the Treasurer's office and spoke with Jason Nelson. He said we can use an existing PTIF account, but we have to document the separation of funds. He said separate accounts are ideal. They prefer we do not request an account for a short-term purpose.

John suggested he and Scott meet to discuss financial institution options. **Scott suggested the credit union, but he is unsure if they can host state accounts, but we will start with a resolution for a new account.**

#### **4. Road and Trail (motion/voting):**

- a. **Pothole update:** Chris stated we have held off on this last pothole go-around because we trying to get roto mill projects done. We are not taking the roto mill from the highway at the moment. We will take it in a few weeks in August. It is slated for the dirt roads as well as Aspen Ln. Suzanne replied she didn't think we were doing any more dirt roads. Chris replied Highfield Rd, the flat part on the backend. We are doing the steep engineered sections because it won't hold together. We are looking at roto mill at the end of Aspen Ln to correct issues at the turnaround where it was thin.

Larry asked for the plan to repair all the potholes on Aspen Ln going towards Silver Creek Rd. Chris replied, that is going to be fixed when the asphalt company comes in during the first week of August. Gary doesn't have a firm date. The asphalt contractor, contracted by the County, to do asphalt-laying will be doing that as well as several other areas such as Silver Creek hill from the guard rail up to Westwood Rd. He and Gary want to address some soft areas on Aspen Ln that need to be cut and removed. Then we will asphalt and do a level course across a good portion of it with roto mill at the far back. We are hoping we can get the roto mill down so we can chip seal the back portion of the roto mill.

Larry asked, what is chip sealing? Chris replied chip seal is an asphalt emulsion oil that is put down with a tiny gravel. Suzanne stated we called it cold-pack in Michigan. Chris continued, the oil goes down, the chips go on top, they roll it in and then they apply a fog spray on top to seal it.

John asked, do we have to pay for the roto mill? Chris replied the roto mill is free. We just have to pay to have it applied and rolled.

**Suzanne requested staff put the road work plan on Nextdoor and at the mail center. Eileen asked Chris to send her the plan and she will get it posted.** Suzanne asked if Eileen ever got her Nextdoor account. Eileen replied no. John added the County is helping with Nextdoor posts.

Eileen asked do the soft spots in the road mean there is water infiltration and the need for a pipe to channel the water? Suzanne replied there are lots of springs. Chris replied not in most of it; there are some ditching issues that is also covered in what we approved in the capital improvement that will be addressed.

Suzanne asked on the north side of Aspen Ln, is that damage due to a snowplow? Chris replied yes.

- b. 2021 repairs: see above. Chris will send out dates that Gary is compiling. The chip seal is not going to be in until the middle or latter part of August. He hopes he can get that roto mill taken care of so we can chip seal on top of it on Aspen Ln.

Suzanne wondered about the status of weed control and requested it be added to the agenda for the next meeting. Chris replied he has spoken to Mike Montgomery about scraping the trails. There are certain areas that are used. Where the traffic is, the weeds will be down or not there. Where the trails are not used, the grass comes up through it. He has not coordinated a date with Mike, but he has spoken with him.

Larry stated weeds are one thing, but thistles are another thing. Especially at our mailbox. Chris replied we had a week control application in June. We need to do another application and probably two more applications before fall. Scott added the well house. Suzanne stated to reduce the need for chemicals on her property, she cuts off the seed heads in the middle of the year. If you do that, for some of them, it reduces them while others continue to need the chemicals.

Chris replied, thistle seeds stay in the soil for 10 years, dyer's woad 50 years, Russian knap weed til we are all dead. It is an on-going battle. An application will be done in July and two more in September and October. Scott requested the residents are notified of weed control. Suzanne agreed.

Scott asked if we are doing a Lewis Park clean-up this year. Chris replied John had something in May where we got zero response. He walked up there recently. We need to fix the upper bridge and it would be nice to have some volunteers. There is always dead debris we need to remove. Chris suggested we try another volunteer day. Suzanne replied it takes quite a bit of coordination. Chris is going to need help. It would make more sense to say we have some specific projects. Once school starts you may find some people who need to do volunteer hours.

#### 5. **Water (motion/voting):**

- a. Well meter letter: John stated the well meter letter went out on Wednesday to 149 properties that we have identified as having a well and not having a meter or not having a meter that is working correctly or not corresponding with us. We have had a surge in responses from residents: 10 came into the office to talk about it plus 20-30 phone calls. We are tracking compliance. We need board input on how to handle those who don't comply.

Nathan replied we want to work with people to answer their questions. If they don't contact us, we send a follow-up where we cite their specific water right number, the memorandum decision from the State Engineer, here are the documents listing your property as a point of diversion and get into more specifics about why they need to comply. Ultimately, and he hopes we don't have to do this, we just disconnect them as an approved point of diversion if they are not going to comply.

Suzanne asked are we providing a list of contractors? For the people who want to work with us, how can help facilitate that getting done? Chris replied some local contractors are installing some this week. He hasn't had anyone ask him, but we do have a short list of local contractors that have done this work in the past: Charlie, Neil, Mike and Daly. Chris stated any of the well guys will do it. He wishes they would do it when they drill the wells but most of them are not.

John asked do they all have to be inspected by Chris. Chris replied yes.

Suzanne stated for 150 installations and 12 weeks to go; that is 12 per week. Can we inspect 12 each week? Chris replied that is not a problem. He doesn't have 150 meters on hand. Suzanne continued if it someone is willing to sign a contract, but it doesn't get by October 31<sup>st</sup>, what flexibility do we have? Nathan replied we have structured the letter indicating all we are asking is for them to respond. John added, if they are working with us. We will keep detailed notes about our communication. He got a message from someone who wants to do get it done but is unsure how to do this from San Diego.

Chris stated he would love to have 149 meters on hand except that the Service Area doesn't want to pay to have 149 meters on hand. Suzanne agreed. She is thinking of a burn rate. Are we making progress or not? **John replied he will provide an update on installations at the next board meeting.**

Nathan stated once we have gone past that deadline, we send a follow-up letter to folks that haven't responded. That is when we include the specific water right information, and we start to lay out some of the threats such as disconnection and penalties allowed by your regulations. Suzanne asked is the same true for Beacons. Chris replied yes.

Suzanne asked how many Beacons are needed? Upper well lots with meters is 49. How many Beacons do we have on hand? John replied it's on the connection services sheet. Suzanne asked what is the turnaround time? John replied we are aware that some meters have Beacons, and some don't.

- c. **Silver Bullet replacement tank update:** John stated the next step is to get that proposal over to Heinrich in Park City. Are we looking to lease it or buy it? What are the details of the proposal? Suzanne replied it would be wonderful if they wanted to dedicate the land to us. If they won't do that then a lease would be necessary to ensure there is a legal agreement. Nathan stated he would highly recommend not leasing it if we could avoid that. That would put you in a precarious situation. We really want to purchase the land. He is unsure if a lease would be acceptable if we seek a bond for this. Chris replied, are we going to Park City and saying, "we'd like to purchase this for \$1 and it will continue to be open space with our water tank on it because it's a parcel that is never going to be developed"?

Nathan added that this is something we can discuss in closed session because it is a purchase of real property. We should refrain from discussing dollar amounts in open session. The topic is on the agenda so we can move into closed session whenever you want. Suzanne replied that would be good.

- d. **Arsenic study:** Chris stated he had a water sample taken from the Mountain Regional connection so we could get some data in case we ever had to use their water.

*At 6:55pm Scott motioned to move into two closed sessions which was seconded by Larry. Support was unanimous.*

**8. Additional Closed session per UCA § 52-4-205 (1)(C) to discuss imminent litigation.**

**Additional Closed session per UCA § 52-4-205 (1)(C) to discuss the purchase of real property.**

*Scott motioned to authorize John to work with Ben Minor to assess how much property we need to negotiate for the new location which was seconded by Larry. Support was unanimous.*

**9. Adjournment:** *At 8:06pm Scott motioned to adjourn which was seconded by Henry. Approval was unanimous.*

**Summit County Service Area #3**  
**AUGUST 23, 2021**  
**UNAPPROVED MEETING MINUTES**  
**BOARD OF TRUSTEES MEETING**  
**629 E. Parkway Drive, Suite 1,**  
**Park City UT 84098**

**BOARD OF TRUSTEES**

Vince Pao-Borjigin, *Chair*

Scott Sharp, *Treasurer*

Henry Adams

Larry Elbert

Suzanne Carpenter, *Vice Chair*

Paul Kraus, *Clerk*

Hally Hanssen

**BOARD Present:** Vince Pao-Borjigin; Scott Sharp; Paul Kraus; Larry Elbert; Suzanne Carpenter; Henry Adams

**Absent:** Hally Hanssen.

**STAFF:** John O'Brien (General Manager); Eileen Haynes (Assistant Clerk).

**CONTRACTOR:** Chris Bullock (Roads Master/Water Operator); Nathan Bracken (Legal).

**PUBLIC:** John Hansen.

**ELECTRONIC:** Suzanne Carpenter; Chris Bullock.

**1. Welcome and call meeting to order (motion/voting):** CALLED TO ORDER AT 5: 36 PM

a. Roll call: *completed.*

b. Review board meeting minutes of July 6, 2021:

*Larry motioned to approve minutes as presented which was seconded by Scott. Approval was unanimous.*

**2. Public Comment:** no public participants.

**3. Administrative & Financial (motion/voting):**

a. Board training requirements and certificates: John stated we have no changes from last month.

b. Dashboard review: John reviewed the Cash Summary sheet. The Wells Fargo account #6893 had a big jump due to the Earl St Bond deposit. John has determined the connected water services unit count is 197. We have been listing the count as 205.

We have 197 accounts charged the connected rate in Pelorus. The wells with a private water right jumped from 36 to 37. The total number of parcels, provided by Summit County, is 594. He will continue verify the parcels and their charges. It is a work in progress. Eileen added a number of those lots belong to utility companies and Nathan added it includes a number of lots we are not required to serve.

John continued there are no changes in construction remodeling from July to August. In accounts receivable the majority of accounts, 66, have a balance of \$162 which reflects a lag between billing and crediting payments. We have 5 accounts totaling a balance due of \$8.6k. Two of them haven't paid a water bill in over a year.

c. Review and approval of expenditures: John stated the first part is the last 3 months of transactions from Wells Fargo. He is seeking approval of the invoice from Hydro-Specialties for meters. Scott asked are these meters for resale. John replied we are selling them at cost to residents. Another step we are taking is installing replacement lids for the meter vaults. The lid expense is under \$5k.

*Scott motioned to approve the payment of the Hydro-Specialties invoice #24656 which was seconded by Henry. Approval was unanimous.*

John asked for approval to pay Invoice #44747 from Hansen, Allen and Luce (HAL) for professional fees detailed on page 2 of the invoice. Scott asked are any of these fees chargeable to a resident. John replied, no.

*Scott motioned to approve payment of the HAL invoice #44747 which was seconded by Suzanne. Approval was unanimous.*

John requested approval of a second HAL invoice #44784 for the work on the arsenic treatment facility.

*Larry motioned to approve payment of HAL invoice #44784 which was seconded by Scott. Approval was unanimous.*

Vince suggested the general manager combine all invoice approvals into one motion to save some time.

- d. Quarterly newsletter: John stated the next newsletter is scheduled for October. Please send suggestions or additions to Eileen and John.
- e. Earl Street Bond: John stated we received a \$300k bond for the Earl St project. You might have seen the equipment staged nearby. The check has been deposited to our escrow account in Wells Fargo. He wants the board to discuss keeping the money where it is or creating its own account. The applicants intend to work on this project immediately and request the money back in 2 months. If it meets the standard, they will get 90% of the bond back. We hold on to 10% for one year.

Scott stated it will take almost 2 months to get the Wells Fargo account set up. It is still in progress. If we earn interest should we return it? John replied we do earn interest. Scott stated it is an account that is now split with the Mountain Life Church (MLC) bond. John replied we can work up the numbers, but he is unsure if SCSA#3 keeps the interest or returns it.

Nathan replied we are in a grey area with bonds because there is very specific requirements. These are called *completion assurances* under the Land Use Development Act which is what the County or the City would be bound by. The 90%/10% split is set forth in the land use development code. SCSA#3 is not the land use authority here. There isn't anything in the local district code that applies so we follow the land use code because it is the most defensible in his opinion. He doesn't think holding 10% for a project of this size for the year is ideal. Problems do often appear within a year. There is, potentially, an argument to be made for SCSA#3 to keep the interest but it is probably safer to return the interest. He doesn't think the interest is going to amount to much. He offered to look into it further.

Vince replied we didn't have anything in writing ahead of time. Nathan replied we do have an agreement in writing, but it did not address the interest. He suggested if there is a problem, we want the interest. Vince agreed. Nathan suggested we see how this project goes: if there is not a lot of problems or expense, we give it back to them. The point of the bond is to make us whole. If it is a clean project without any issues, it would be unfair to keep it although it would offset the administrative costs. However, no one can complain if we give them the interest back. But if there is a problem, we should revisit it. Vince agreed.

John stated he wants to know the precedent we are setting because we accept other monies such as the \$5k road deposits. Is the expectation we are putting that in an interest-bearing escrow account also? He wants to know what our policy is.

Nathan replied, we don't have anything on point for these types of bonds because your policies have been set up primarily for residential construction. These large commercial projects are new. You may recall when we did the Consolidated Roads Policy a couple of years ago, we put the commercial stuff on hold to figure out how we were going to deal with it. He hopes by the next meeting to have a consolidated draft code to present to the board that incorporates all the old and new ordinances. We are going to want to take some time to review it. He included everything that he could find that hasn't been superseded. He would like to make Katie's agreement a template. The agreement with MLC was not ideal because it happened after the fact. We were supposed to get a bond from MLC, but we did not because they could never get one. We want to have a bond process for commercial projects. We also talked about putting these things on your fee schedule including weight limits. We were never able to agree on how to deal with these remodels.

Nathan stated he doesn't have a problem basing this off of our agreement. When we have a written policy, that will supersede whatever practice we did before. Regarding MLC, ideally if we have concerns, we don't accept the project and if they don't fix it, we use the \$300k to fix it ourselves. Where that 10% comes in is if we accept the project, say it looks good, was built properly and according to the plans but something happens after the fact. The difference with MLC is we never accepted the road. They disagree. That's the key difference. In this case, \$270k is released back and we keep \$30k.

Scott asked for the 10% that we hold, should we pursue 3 accounts with Wells Fargo because if we have an issue, we will have to prepare a bank check to refund the 90% and we will need the account to hold the 10%. It makes it easier.

Vince replied we can look at setting up new accounts at new banks and severing our ties with Wells Fargo early next year after we have reviewed Nathan's consolidated commercial regulations. We have to get backlogged projects out of the way to give you some breathing room.

#### 4. Road and Trail (motion/voting):

- a. Pothole update: Chris stated Summit County Public Works will start tomorrow to fix the majority of the potholes by applying a thin overlay. The pothole list includes Westwood Rd, Redden Rd, N Oakridge Rd, S Oakridge Rd, Parkway Dr and a couple of other areas. Gary Horton, Engineer has walked the roads with Public Works to show them our priorities. Chris will also be on-site to verify the work is being performed.

Vince asked are you going to address the shoulder of Wasatch Way going south onto Silver Creek at the stop sign. Chris replied it is not on his list but stated he would fix it using Public Works equipment the next day.

- b. 2021 Repairs: Chris stated the roto mill was delayed due to rain. Last night we received some and they will be progressing again tonight. Our priorities with the roto mill currently are: Redden Rd, Linger Ln, S Oakridge Rd, Aspen Ln and Parkway Dr between Echo Ln and Echo Ln before we address the remainder on the backside of Highfield Rd. **John requested that Chris notify him if delays will push back the completion of the road work so he can post an update.** Chris agreed stating he is in daily contact with Gary and the contractor who is working on I-80. **He will look at the schedule and do an update.** They have a deadline to hit as well.

Suzanne asked are we doing full-depth pothole repair before the roto mill? Chris replied full depth is with new asphalt and will be done by Public Works with their machine. They will be filling the potholes and laying a level course across the top of it to strengthen it. This is on the good roads such as Westwood Rd, Parkway Dr, part of Redden Rd, and the front portion of Oakridge N and Oakridge S Rds. The roto mill to fill potholes and other damaged roads is part of this roto milling project. We want to get areas like Redden Rd, the upper portion of S Oakridge Rd and Linger Ln, the back of Parkway Dr and Aspen Ln done with roto mill because that is a different process with a separate crew. We have 3 different asphalt projects going on right now at different times. We also have Silver Creek Rd and the guardrail being done right now.

Suzanne continued, looking at Aspen Ln and Oakridge Rd where we know we have some major potholes and some issues with the road, how we are timing the pothole repairs versus putting roto mill on top. Chris replied Aspen Ln is going to receive roto mill while the first 1,500-feet of Oakridge Rd S is going to receive new asphalt in the potholes and a small thin overlay. The back portion of Oakridge Rd S and lower Redden Rd, where there is a different road degradation, will receive roto mill as well as a portion of Linger Ln that is dirt will be getting roto mill. There are two different pothole solutions occurring at the same time.

Suzanne replied, she is seeking to understand, the investment that we are making in these roads, are we fixing the underlying potholes before we put roto mill on top because to put roto mill on top of an area that isn't stable, she is unsure how that gives us a better driving surface or supports the investment we are making.

Chris replied, the work that the County is doing is exactly the asphalt treatment that needs to occur. The roto mill, in the majority of the places, is fixing the issue by bridging or capping what is there. For some of the other long term work we are temporarily doing the roto mill and then, in a longer plan, we will come back like you see at the guardrail, and we will pulverize the whole road and then add an overlay using road base and roto mill.

Suzanne replied there will be nothing there to pulverize if we don't create a good base. Aspen Ln has sections where the snowplow pulls it off so there is nothing left to pulverize. The commitment was in certain areas there were certain roads where we going to do full pothole repairs and it sounds like that list has become shorter than what was part of the plan. She wants to understand the difference and if we are doing the 2021 repair for the roto mill and if each year we wait until August to get it done it is not providing a benefit to the residents. She is trying to understand the use of money and how we are doing it along with making drivable surfaces.

Chris replied, he doesn't believe the list has changed. We are looking at doing more of the roto mill building up and correcting Aspen Ln and S Oakridge Rd more than initially discussed. We have the budget already budgeted.

We chip sealed a lot of different roads but a portion of it was skipped. He feels we are spending the money appropriately and not wasting. He offered to review each repair case-by-case with the board members.

Suzanne stated regarding the current roto mill, how thick is that going on? Chris replied we planned over 10" in most areas. We are building it out to the edges. Suzanne asked is that the same thing we are going to do on Linger Ln. Chris replied yes. Suzanne stated, for potholes she heard Redden, Westwood, the first areas of Oakridge. What are the other areas for potholes? Chris replied, Parkway and Wasatch. Suzanne stated, so that's the full depth pothole repair. What streets get the roto mill to 10"? Chris replied we are discussing Linger Ln, upper portion of S Oakridge Rd (from Linger Ln back towards Meier Dr). We have roto mill going on the lower portion of Redden Rd, on Aspen Ln from the turnaround to a paint mark near Cottonwood Tr, on Parkway Dr between Echo Ln and Echo Ln and if we have any left, we will be putting that on the backside of Highfield Rd from Pace over to Crescent Dr N near the Highfield tank.

Suzanne asked, why is not all of Aspen Ln being roto milled? Chris replied there is a portion of Aspen Ln that needs additional drainage ditching work. We probably have the material, but we want to get the other ditching work budgeted and scheduled and address that appropriately. Suzanne asked in what section on Aspen Ln is ditching and repairs? Chris replied there is a couple of sections between the front of Aspen Ln and Silver Creek Rd back to a little past Sagebrush Pl on the uphill side.

Suzanne continued, so we are going to take some of the road and add 10" of roto mill and others leave it? She is thinking about the snowplow, travelling over all these different surfaces, is going to make a mess because it will hit these transition points, especially since they use the grader across there on a regular basis. Chris replied, there is not going to be a 10" hump. There will be a feathered transition area. There shouldn't be a drastic change where the grader is going to chop everything off.

Larry asked, Chris are you saying, on Aspen Ln, that no roto mill is going on between Silver Creek Rd and Sagebrush Pl? Chris replied that is what he is saying right now. Larry continued, what about all of the potholes and ripped up asphalt that the snowplow created and piled in the ditch? Will that be addressed before we get snow this year? Chris replied, the front portion will need some temporary cold patch repairs until we can budget and get the ditching and drainage done in the future.

Larry reiterated, so you are saying cold patch is going in. Suzanne replied no, he is not saying that and that is why Suzanne is concerned because 2" of asphalt got ripped off this spring by a snowplow. She understands the need for ditching, but she thinks the proposed plan will make the road much worse by having a really poor section that continues to fail. She knows the ditch on the north side could be better but to leave that section of the road with nothing on it, she thinks it will create a section that will completely fail knowing the way snowplows work.

Vince stated he understands both concerns and asked did we discuss that in our summer plans earlier this year or is this coming after the fact? Suzanne replied we have done a lot of this work verbally in the meetings. We talked about the initial plan and it's great that the County is providing the additional 2021 roto mill because when we look at the plans, we were just going to do full-depth pothole repair. Then we got the opportunity to get this roto mill which is a huge benefit and now it's just been a matter of trying to do the appropriate repairs.

Vince asked, did we as a board articulate this to Chris beforehand? Do we have it in the budget since we pre-approved all the work that was going to be done this summer earlier this year? If this is an additional piece of work that we maybe we didn't clearly address earlier, do we have it in the budget to address it now or is it too late considering Summit County already has their marching orders?

Suzanne replied in her opinion it is not too late because we have roads that need work and repair. Due to the fact that we have been doing this verbally it throws this discussion into the middle of a meeting. Vince defers to the proposals from Chris and Gary on our 2021 plans. This is always an ongoing situation with our roads. Is this new work we want to do now or was it something we agreed upon earlier that hasn't been addressed?

Larry stated the list previously included Aspen Ln and the proposal indicated we were going to do something less than a full asphalt repair but now we are hearing less than half of Aspen Ln and it's not the part that goes to Silver Creek Rd. It is a long stretch between Silver Creek Rd and Sagebrush Pl.

Vince requested the document that shows the proposed work that we approved. We need to ensure we are doing what we thought we were going to do but also don't want to spin our wheels if this is something they didn't

include. Suzanne replied it is not. Because we have access to the roto mill, we are repurposing some of the pothole repairs into other areas. What Chris has been able to obtain with the County is good news for the community as a whole but at the same we need to ensure that if we aren't doing it properly, we don't get the benefit. Vince replied he agrees 100%.

Vince continued, looking at the April 19<sup>th</sup> proposal from Gary and Chris for the work that is to happen this year, these are the big projects including Silver Creek Rd from Wasatch Ln to Meadowview Dr, Silver Creek Rd from Wasatch Way to Tollgate Rd, Redden Rd from Maple Ln to Wasatch Way, partial depth pothole repairs and full depth pothole repairs. Vince asked what is Chris' and Gary's take on Suzanne's and Larry's concerns? Is it something we are going to do next year?

Chris replied it is something we have to address sooner than later and if the budget allows he can see accomplishing some of the things we need to do on Aspen Ln. He doesn't want to delay it any further because the LTAP report indicated Aspen Ln was rated as no more life in the road. Since then, we have just been patching Aspen Ln until we have sufficient budget to address it. If we want to change and completely take everything away from Highfield Rd, he is happy to do so. He wants to ensure we are not wasting the money putting into it.

Vince asked are we too late in the game to address this or is this something Chris and Gary can take a look and determine the potential costs, and does it fit into this year's budget? Suzanne replied he doesn't think we will have the time to do any of the trenching and drainage. Chris suggested he and Gary take a look in the morning.

Vince stated he is concerned about coming in late with a change. He would like to spell things out a little more clearly with these projects and keep it on task. Suzanne stated she is appreciative of all the Chris and Gary have accomplished. She knows what it's like living on Aspen Ln where we've created a situation difficult to maintain. If we fix one part of Aspen Ln but not the whole thing, she is unsure we will get the benefit. Before we split our resources between Aspen Ln and Highfield Rd, we should look at it because if we do part of Highfield Rd with roto mill, we begin to make the same situation happen on Highfield Rd that is occurring on Aspen Ln.

Vince replied he agreed with Suzanne but it's too late to adjust this right now. The best we can do is have Chris and Gary look at that part of Aspen Ln and see what it would cost and what their thoughts are. Can it wait a year or two? The work has already been scheduled. He doesn't want to screw up our relationship with the County due to last minute change orders. Suzanne replied she understands. Vince replied if we had this conversation a month or two ago, absolutely we would have had time to address it. I don't think we should request any big changes to the project that has already been approved and in process. **Let's see if there is something that could be squeezed into this year's budget knowing they are already here, and it wouldn't add too much effort and time.**

Suzanne replied she knows from driving Aspen Ln that if the area from Silver Creek Rd to Sagebrush Pl is not repaired this year, it will be impassable come winter. Vince replied let's see if Gary and Chris can come up with a solution. Suzanne and Chris agreed.

Eileen stated she found the March minutes noting Gary said he hears Suzanne's concerns, and he will work up some pricing for her about Aspen Ln and other areas. John stated it sounds like Chris will be discussing this with Gary and close the loop on this. Scott recalled a list of roads was presented. Vince added our roads will always be a challenge. **Chris and Gary should be a little more detailed in the 2022 roadwork proposals which means you will have to start 2022 work now if we are going to have your proposal at the October meeting. The board should begin collecting their observations of the roads.** We want to put a certain amount of trust in Gary's expertise.

- c. Earl Street: Chris stated equipment and materials have been mobilized on Earl St. They did notification for the Woodside Home development through their HOA. The road hasn't been closed yet because they haven't been able to start work. Chris is concerned if they continue delay. If we get into September too far and they can't get the road asphalted, that is a big concern for the Service Area.

John asked about a realistic completion time for this project. Chris replied they should be laying 200-300 feet of pipe per day, and they only have 600-feet of pipe to lay. They should be done within a week of commencement.

Vince asked who is signing off on this? SCSA#3 or the County? Chris replied the actual completed finished road will be approved by SCSA#3 while the utility worked is approved by the utility company and the County.

- d. Vista Circle: John stated a resident has asked for Vista Circle to be inspected. A resident has asked for the Right-of-Way to be marked. Chris stated Vista Circle is similar to our other turnarounds. It is a platted turnaround. It seems like there is a significant amount of landscaping and other items encroaching in the roadway because Vista was never built to its full platted size. We have requested a survey quote from Ferrari Surveying who has quoted us \$2.2k to survey that section of road and turnaround.

Vince asked what is your perception of that road and where it might fit with our other priorities? Chris replied, it would be on the lower end of our priorities. The dirt road is graded and receives mag-chloride each year. Their concerns include the snow pushed by the snowplow into a rock wall and a couple of other items. The maintained turnaround is about 35-feet in diagonal while the plat should be 60-feet. He assumes the rock wall and driveways are intrusions into the ROW.

Suzanne replied she supports doing a survey and begin communicating with the homeowners so that when this project gets funded, they understand that that means some of the landscaping and such might need to move to support the work the Service Area would do.

Vince added when John and Chris communicate with those homeowners, let them know we are addressing it but it is a low priority compared to the rest of Service Area roads. He wants to avoid giving them a false perception that we are going to address their road immediately.

Suzanne, in looking at the circle online, it appears the homeowners have installed very nice landscaping so we need to talk to the homeowners because it is easy to see why the snowplow would push snow into some of these rock walls, so we want to partner with them on this whole process. Vince agreed.

Scott observed the snowplow appeared to cause more damage this year than in previous years. He requested Chris mentioned that to the snowplow operator this season. Suzanne noted snowplow drivers have a tendency to scrape our uneven roads. Chris replied in the pre-season he will conduct a drive-around with Wolff and address some of those issues. In his opinion, Summit Dr cul-de-sac would be a higher priority because the grader has to back up 300-some feet into someone's driveway to turn around.

Vince suggested Chris and John reach out to homeowner's whose landscaping and driveways may be affected by our snowplows. Let the homeowner know their encroachments are impeding their efforts. They will have to remove their landscaping from the ROW to give access not only to the snowplows but to fire and garbage etc.

#### 5. Water (motion/voting):

- a. Well meter letter: John stated we have 240 meters: 188 in the upper and 50 in lower. Our goal is to get a meter on every well. In upper we need 122 meters and in lower we need 7 meters. Since July we have identified all the wells and we have gotten a few more installed. We appear to have cleaned up all the responses from the letters on whether they are private water rights or whether or not they had a well. We have 129 wells that need meters. Some wells have a meter but not a Beacon as indicated in the chart.

We have 2 residents that have requested extensions on their meter installations until 2022 due to the financial hardship. John recommended an extension is granted. Suzanne added we should establish a date for completion before enforcement action occurs. Scott is concerned that granting an extension will inspire more such requests. John is glad the residents responded. We have many others who are not in compliance.

Nathan stated we have more discretion to grant an extension than we do once we start the enforcement process. He is more concerned about the precedent of starting the enforcement process and then not implementing it. He recommended we work with residents to get the meter installed and if they need an extension, Nathan feels we have authority under our rules to grant that extension. He is concerned, however, once we start the enforcement process for these other people that may not respond appropriately, he does not want to set a precedent where we start giving them exceptions to that. Vince agreed. Nathan continued, the way he structured this from the start was, we will be flexible if you work with us and agree to install the meter. Sooner or later, we are going to bring the hammer down on these folks that have gotten the chance to work with us and did not.

Vince stated we have given a few opportunities in the past for people to become compliant which the majority have chosen to ignore and not even communicate. Thanks to John and Chris, we have actually had people install the meters and people inquiring. For these two requesting extensions, he would prefer to give them the benefit

of the doubt because they are reaching out in good faith. Nathan stated his recommendation for the next letter, for those who haven't responded, should start the enforcement process.

Larry requested Nathan outline the enforcement process. Nathan replied we send them a letter stating you have not done this. We have fines and we can ultimately, if they don't install it, remove their access to use the well and if they are on our system, we can discontinue their service. We have a series of 3 notices that they get and then they would have a chance to appeal it. Finally, we would record a notice with the County Recorders Office saying this property no longer has a legal right to use its water rights and it is effectively a dry lot. As long as they are living there, we wouldn't have recourse, but it will take away their ability to sell the property. Suzanne added, the minute we take the permit to divert water away, from that point forward it is theft of water.

Chris stated he must also notify the Health Department and that could become a non-dwellable house if we remove the water service. Suzanne stated it is pretty significant once we start this. You have theft of water and public health property condemnation. Once we begin that process it's really expensive and difficult to restore. It will be more expensive to restore permission to divert the water than it would be to put the meter on the well. The homeowner will have to pay for both if they change their mind.

*Larry motioned to grant the requested extension to June 15, 2022 for 2 property owners which was seconded by Suzanne. Approval was unanimous.*

John stated the \$10k fee added to closing costs for for-sale properties without a meter has definitely dissuaded anyone from selling without a meter. No one has paid that fee. Eileen added no one has been upset. They understand we don't want their money; we want compliance. John stated no one seems too surprised.

Vince asked if we need to send out a reminder? How long did we give them? Suzanne replied October 31<sup>st</sup>. Vince suggested sending out a 'tickler' in mid-September because that still gives them a month to comply.

Nathan stated for the next round, for the holdouts, particularly for the upper lots, we will say 'you are using our rights, here's the documentation to support it, you haven't responded, we are now bringing in an enforcement process.' He assumes there are some people who hold the opinion that they are not subject to SCSA#3. They don't realize that they are using Service Area water rights. John agreed noting about 7 people called and said they paid for their well. Nathan replied they paid for their well but not their water rights. John continued it did generate dozens and dozens of phone calls from people who just weren't clear. It did generate a lot of uncertainty. He and Chris spent a lot of time consulting the Division of Water Rights.

Vince recommended the approach: we are not here to penalize you; we are here to help you and we are reminding you that you have 6 more weeks left to comply. Come November 1<sup>st</sup>, we will start enforcement. We have given them more than ample opportunity to address it. As Nathan said, at this point now we have to start getting heavy-handed. Nathan stated a reminder makes a lot of sense; just to the people you haven't heard from.

Nathan stated he needs to work out the process of revocation with the State Engineer. He believes we can revoke it administratively without filing a Change Application. He wants to avoid having to file another Change Application because he is unsure we can get some of it re-approved. If we remove those wells as an approved point of diversion, you may never get that approval back. Nathan would prefer to say, you are still using our water rights, we own them, you have not complied so regardless of the fact that you are approved at the point of diversion, we are revoking our authority for you to use it and then record that. We would inform buyers and sellers it is not an approved point of diversion, and we will not sign off on your sale.

Vince asked if a fine is an option. Nathan replied, we can do that too. The process we are going to use for this is under our Conservation Violation because without any meters we don't know if they are using the appropriate amount of water. It includes a series of notices and we can impose fines if we want. The way it is structured, which Nathan inherited, we are not trying to penalize people; we are trying to get them to work with us. Granted, cutting them off is an option and for the individual wells, that's all we can do. John clarified that we have about 6 water connected properties without a functioning Beacon.

Larry asked for clarification about losing water rights if we cut-off a property. Nathan replied we wouldn't lose a water right. He is unsure if we can get it re-approved. For instance, we have E-2451 which is one of our bigger water rights that was approved in the 60's. It is a conglomeration of two separate rights. Half of that right is

owned by shares while the other half is a water right that is a decreed right. The State Engineer has told Nathan, we will never approve anything like this again. He is not saying he couldn't come up with a way to do it.

Vince asked what stops us, at the water right holder, to get a judgment to allow SCSA#3 to install the meter and bill them? Nathan replied, the challenge with that is there are very few water providers in your situation. Most just operate a system. If it were up to Nathan, he would prefer to give the property owners their own water right. The challenge is it is on private property and their private well. Nathan doesn't want to deal with the potential liability of installing it incorrectly. We have more leverage to give them notice we are recording with the recorder's office revoking their use of our water. Larry added it is going to hamper the sale of their property and that is going to get their attention. Nathan agreed.

Larry stated there is no way people can get their meter installed by Nov 1<sup>st</sup>. John disagreed. Suzanne agreed with Larry stating there isn't enough time to get to contractors. Larry added there is a finite number of people who can do that. Vince stated they have had 15 years to do it. John replied, the issue hasn't been that they want to get it done and haven't been able to find someone. Suzanne stated she had a meter installed. She was told it was compliant and now she has learned it is not and needs to get a Beacon installed. It has been a little confusing.

Nathan agreed. We don't have very good records of how that went. Vince replied we have definitive guidelines for meters and Beacons. It's been encouraging that the office got a few dozen phone calls inquiring about compliance. **Let's get a reminder letter out and see what additional response we get from that and by September meeting John and Chris will have a good idea of what the outcome of that was and then we can discuss next steps for enforcement.** With winter coming up, if we get enforcement letters out in November or December, there is nothing wrong with us saying we are going to enforce this and have them reach out to us and request a deferment to spring or whatever. Nathan stated if the Board wants, we can revisit this in September and change this 4-5 step process. We haven't told anybody how we are going to enforce this yet. Scott added the first letter was kind of rough. He suggested if you haven't contacted us, please contact us to work this out. You have to get this done.

Vince stated early in his tenure when the first letter went out, pretty much no one responded. Nathan added that was a nice friendly letter. Scott replied people asked why are you threatening me? People may not realize they have to get a Beacon on. Suzanne agreed. Until it is where our water manager can read it, it is not considered complete. **Vince requested we make it very clear in the next letter about the meter and the Beacon.**

John stated we are tracking who has meters and Beacons. There are very few Beacons on upper, maybe 25. If someone has a meter without a Beacon, we are listing them as compliant right now. We can read it manually. Our goal is first to get a meter on every well and then we will worry about getting a Beacon on every meter. **Vince disagreed, it should go hand in hand. He doesn't want to go through this process again. Suzanne agreed.**

Nathan stated where it becomes a concern is where we have past representatives of the Service Area who told people they were compliant when they weren't or in some cases the meters were installed incorrectly. John replied some people called to say they have a meter installed by the Service Area. We have no record of this.

- c. **Backflow:** John stated Chris completed the class for cross connection certification last week. Chris stated the State of Utah requires that each water system have a cross connection control program administrator. Chris completed the certification, and our water system is now compliant. As the administrator, it involves identifying and billing assessments at homes and businesses for possible cross-connection problems and violations. This is not testing backflows; this is identifying issues and addressing them with property owners or businesses and doing that program with the Service Area.

John asked about the wells in our jurisdiction. Chris replied, the testing proctor stated private wells need to have backflow prevention. He explained the situation with the Service Area and our authority on these wells. She will get back to Chris. Nathan, John and Chris had earlier discussions regarding the backflow prevention but from his education he believes we will need to apply the backflow prevention testing to the wells and those private properties in the future.

Nathan replied he would like to see that information. If they are withdrawing our water rights, then he believes we have that authority. Chris replied you are correct. He is specifically speaking to SCSA#3 water rights. If Chris is asked to come to a private well, he can identify those cross-connection issues, but he doesn't think we have

enforcement authority unless it's our water right. The testing proctor was also the instructor for the majority of the three-day class.

Nathan replied with our system, absolutely. He would like to see more information and what they have to say. Chris replied he will share his information with Nathan. Rural Water administered the class and testing.

Suzanne stated even on the municipal system there is a requirement to have it done annually. It would be interesting to see if it has to be designed and that component installed or how often does it have to be inspected.

Nathan stated the Rural Water Association is not the regulator. The best organization to consult is the Division of Drinking Water. Nathan's firm has the former Director of the Division, Marie Owen, on contract to answer questions like this. If it is something more detailed, SCSA#3 could retain her specifically but if you want to authorize Nathan, he could call her. Chris recommended the Board authorize Nathan so we have clarity. It would be great to know for sure.

Vince replied one half hour to one hour falls within John's purview. Nathan stated he could check with her to see how much time she needs to look into this. Vince asked if there were any objections from the board. Suzanne replied this is a good idea.

Chris stated we will start recording, in our annual Consumer Confidence Report, the compliance with the backflow. Right now, our numbers are low in response to our letter. We have 35 properties enrolled in our testing and we have a small number that have sent in their report. Of the 209 connections in lower, it is still not significant enough so we will start reporting it with our Consumer Confidence Report each year.

Vince suggested that when staff sends out a notice for the wells, to send out a notice for backflow again.

- c. Silver Bullet replacement tank update: John stated Ben Minor sent John some plans which John sent to the board. There is a conceptual drawing of the proposed site belonging to Park City. We needed details on the amount of land needed so we could develop our proposal to be submitted to Park City. It shows a drawing with a 200k gallon tank and has sufficient land to potentially drill another well there in the future.
- d. Potential liens: John stated we have two individuals who have not paid their water bill in over a year. He has talked with both parties who said they would come to the office to pay the next day but did not do so. That was July 27<sup>th</sup>. He followed up with a certified letter last Friday advising them SCSA#3 will put a lien on their property. September 1<sup>st</sup> is the due date for a lien submittal to the County which can be revoked up to September 15<sup>th</sup>. John plans to move ahead with the lien process on these two properties.

Scott asked they paid before this then stopped paying? John replied correct. We last had a payment in March and April 2020. Vince asked did they give a reason? John replied one said it slipped their mind and the other thought their brother was handling it because the brother is the billing recipient. The sister said she would come in to pay the next day. Vince suggested John advise them to use Xpressbillpay.

8. **Adjournment:** Scott motioned to adjourn which was seconded by Henry. Approval was unanimous at 7:59 pm.