

**CAPE CARANCAHUA
PROPERTY OWNERS' ASSOCIATION
BOARD OF DIRECTORS Working MEETING
December 8, 2022
Minutes**

President Pam Stewart called the meeting to order at 1:02 p.m. Board members present: Charles Taylor, Paul Warren, and Larry Schroeder. One property owner attended.

Approval of Minutes

Mr. Schroeder made a motion and Mr. Taylor seconded to accept the minutes. Motion carried.

Approval of Financial Reports

No reports.

Approval of Maintenance Reports

No report.

Approval of Permits and Compliance

1. Lot 181, 182 - Richard Gutierrez - concrete slab under house - Approved
2. Lot 1419 - Olga Ordóñez - new home - Not approved, need more information
3. 1380, 1381, 1382 - Douglas & Linda Skow - 24x40, 960 sq. ft. shop - approved, storage building to be removed
4. 816, 817 - Kelsey Rehg - driveway, storage building - approved; deck - not approved, impeaches on front easement
5. 1106, 1107 - Patti & Michael Schwebel - new home - approved
6. Lot I - General Dollar - approved, drainage go toward Hwy 35, wood fence on 3 sides of property

Approval of Legal Report

Discussed update on property tax suit by Cape's attorney against Jackson County to lower taxes on Cape common areas. No action taken.

A motion was made by Mr. Warren and seconded by Mr. Taylor to attach a letter received by the Cape's attorney from the Cape Water Supply Corporation to the minutes to memorialize the response and position by the Water Supply Corporation. The Cape board disagrees with the Water Supply's responses provided and stand by our prior expressed statement. Motion carried. A copy of the letter was made available to all attending this meeting and to any property owner upon request.

Consider installing baseboards/molding at Community Center.

No action taken.

Consider letter to property owner for contractor driving through ditch & leaving ruts.

A motion was made by Mr. Taylor and seconded by Mr. Warren to send letter to property owner and construction contractor that ditch and street, Stovall Drive, must be repaired at their expense. Motion carried.

Consider moving BOD Meeting from 2nd Wednesday night of the month to 3rd Wednesday night of the month.

A motion was made by Mr. Schroeder and seconded by Mr. Taylor to move the monthly Board of Directors meeting from the 2nd Wednesday night at 6:00 p.m. to the 3rd Wednesday night at 6:00 p.m. and leave the Board of Directors Working Meeting on Thursdays at 1:00 p.m. Motion carried.

Consider non-compliance fees to property owner for violation of ACC policy.

Property owner was notified by email Friday, December 2, again Monday, December 5, and by phone Monday, December 5, that he would have the opportunity at this meeting to "discuss and verify the facts so the matter can be resolved" of his non-compliance. The property owner was not in attendance. A motion was made by Ms. Stewart and seconded by Mr. Taylor to charge the property owner a \$250 (two hundred fifty dollar and no cents) non-compliance fee. Motion carried.

Consider pay scale for employees.

A motion was made by Mr. Taylor and seconded by Mr. Warren to accept a 2023 pay scale for office and maintenance personnel.

Motion carried.

Consider replacing the roof on the office & pool cabanas.

No action was taken.

Consider employees Christmas bonus.

A motion was made by Mr. Taylor and seconded by Ms. Stewart to give all employees a Christmas bonus equal to one week of pay. Motion carried.

Consider adding statement and signature line to New Property Owner Packet, "I will read and adhere to all Cape restrictions, policies, and guidelines".

A motion was made by Mr. Warren and seconded by Mr. Schroeder to add the information to the New Property Owner Packet. Motion carried.

Consider having Mr. Boone mow one more time this year and have him remove a property owners' damaged culvert.

Mr. Schroeder will have Mr. Boone mow this month and Mr. Schroeder volunteered to ask the water department to dig out the property owners' damaged culvert on West Bayshore Drive.

Meeting adjourned at 3:30 p.m.

Respectfully submitted,

Larry Schroeder, Scribe

MCGINNIS LOCHRIDGE

Zachariah T. Evans
zevans@mcginnislaw.com
(512) 495-6180 o
(512) 505-6380 f

October 27, 2022

Ms. Sandra Witte
2206 Highway 35 North
P.O. Box 9
Port Lavaca, Texas 77979

sandra.witte@portlavacalaw.com

Re: Defamatory Action by Cape Carancahua Property Owners Association

Dear Ms. Witte:

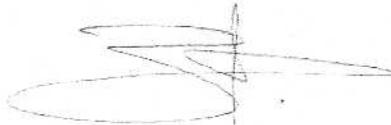
On July 13, 2022, the Cape Carancahua Property Owners Association (“POA”) held a meeting of its Board of Directors (“Board”). During that meeting, multiple members of the Board made multiple false statements relating to the special assessment that Cape Carancahua Water Supply Corporation (“CCWSC”) levied earlier this year. Thereafter, the POA published the Board’s minutes, therein repeating and expounding upon the aforesaid false statements.

Since then, CCWSC and its officers have received multiple communications from members of the public regarding the POA Board’s false statements. CCWSC believes the Board made these false statements, and then reduced them to writing, knowingly, willingly, and in a very deliberate attempt to discredit the reputation and honesty of CCWSC, its officers, and employees, and to expose them to public ridicule.

I have enclosed herein a description of the false statements that the Board made and then reduced to writing within their minutes. The enclosure also provides statements of fact in response to each false statement. CCWSC requests that the Board publicly retract their false statements and provide as such in the Board’s official minutes.

Thank you for your time and attention. Please contact me should you wish to discuss this matter.

Sincerely,



Zachariah T. Evans
Partner

cc: Board of Directors, CCWSC
Executive Administrator, CCWSC

encl: Description of POA Board's False Statements, Corrected with Facts
POA Board's False Statements, Corrected with Facts

False Statement: “\$1.5 million dollar assessment was to fund a 5-year plan.”¹

Facts: The assessment is \$1.4 million, if every member were to pay. The special assessment is for the repairs that are needed now, not projected.

False Statement: “[T]he water company put all their planned expenditures for 5 years into the current year's budget.”²

Facts: All repairs are being performed with loans that the assessment will support. This provided CCWSC the financial security to let members pay the assessment out over five years. CCWSC is making necessary repairs as quickly as possible.

False Statement: “The Water Company made a \$1,900 per property assessment based on a five-year plan that granted POs the option to pay out the assessment monthly but excluded commercial accounts. This would have resulted in a \$30,000 charge to the CCPOA.”³

Facts: CCWSC did not bill anyone \$1,900 let alone \$30,000. The POA has eight active meters and two inactive meters which falls in the parameter of the Assessment. This would equate to \$19,000, not \$30,000. The POA chose to pay for four properties, even though CCWSC advised them that it was not necessary. Only one per member is required, unless multiple taps are owned.

False Statement: “Either the current board members are serving in violation of their bylaws, or they had a vote to fill those vacated seats without notifying POs about the scheduled election. Either scenario indicates a total lack of transparency and professionalism.”⁴

¹ July 13, 2022, Cape Carancahua POA Board Minutes at 2(a). All quoted False Statements are *sic.*

² *Id.*

³ *Id.*

⁴ *Id.* at 2(b).

Facts:

CCWSC follows the letter of the law and bylaws. CCWSC's bylaws provide: "Not later than the 60th day after a Director dies, resigns or is determined by the Board to not meet one of the qualifications shall be appointed by a majority of the remaining Directors to serve until the next regular or special membership meeting, at which time the general Membership shall elect a successor for the remaining balance of the previously vacated term." CCWSC holds its annual members meeting in April each year, when they hold elections. This process is documented and CCWSC has an election policy and timeline that they follow.

False Statement:

"Any legitimate board must be elected by the members in a fair and open election. This did not happen."⁵

Facts:

The members of the CCWSC Board of Directors who have been appointed went through the election process in April and ran unopposed; therefore, they are legally appointed and elected members.

False Statement:

"The first action taken by the current board was to build a \$40,000 fence and purchase of monogrammed hats, shirts, and coveralls. Considering the fact that the water company at that time was financially insolvent, maybe not a legitimate priority."⁶

Facts:

The fence was replaced prior to the assessment. It was dilapidated and had to be replaced due to TCEQ regulatory compliance. The cost of the fence was \$25,655. CCWSC is required to have safety gear for staff, who are often working in extreme weather conditions, and often standing in water, which can be a dangerous situation for them. The need for reflective gear is essential. CCWSC is not and has not been insolvent. CCWSC's bank balance at the time of the assessment was \$159,551. CCWSC has major repairs and equipment replacement that are needed now and that would have more than wiped out any savings on hand. CCWSC is aware it will take time for all special assessment payments to come in, so CCWSC is being extremely careful with its budget.

⁵ *Id.* at 2(c).

⁶ *Id.*

False Statement: "Next, we were asked to buy a \$1.5 million pig in a poke. No one believes the proposed work will be completed during this budget year as required by the CCWSC bylaws."⁷

Facts: The POA Board is aware CCWSC will not receive the full projected \$1.4 million, due to the fact that non-metered accounts would not pay. CCWSC can only repair what it has funds for. CCWSC did the responsible thing and presented the perspective of what it knew it could count on and what repairs it would have funds to complete. This is why CCWSC has taken out two loans to perform repairs and maintenance before the assessment has been collected.

False Statement: "Four new salaried employees have been hired to work in the water company. Two of the four are family members of the current board."⁸

Facts: Two part-time hourly workers (not salaried) were hired to replace one retired employee. These two employees were hired by the Executive Administrator. One hourly full-time maintenance worker was hired by the Lead Operator to replace a former employee. The CCWSC Board hires managers and managers hire the staff. The CCWSC Board does not run the day-to-day operations; they oversee the managers who run the day-to-day operations. The CCWSC Board oversees operations and sets budgets and policies for the managers and staff to follow.

⁷ *Id.*

⁸ *Id.*