

# Transcript of Email Meeting Starting April 8

The two quotes for the fencing: [here](#) and [here](#)

**April 17, 2014 to Conclusion of Meeting**

From: R W Barfield

Date: April 17, 8:50am

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After reviewing the two bids I have a question concerning the cost of material quoted by Copperstate Fence LLC. At the line where the cost of cedar stays is given there is a note that the cost shown does not include the cost of shipping. Does that mean we will be charged for shipping in addition to the cost given in the bid?

I have done business with both of the companies that submitted bids for this project. Though the bid by N&B Fence is the higher of the two, they would be my choice if I was spending my own money.

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From: Carl Gander

Date: April 18, 12:10pm

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I was at the post office today and saw a notice from Arizona Game and Fish reminding residents of Cochise and Pima Counties that it is illegal to provide water to wildlife and the fines can run to \$2,500.00. I don't know who posted the notice, but I guess the state is taking this matter seriously.

Do you think the board should take immediate action to drain / remove the trough ? Would a board meeting be necessary to drain the trough ? It was filled with no vote from the board, so couldn't it be drained at the request of the board member liaison to the windmill committee ?

Carl Gander

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From: Dennis Le Pard

Date: April 18, 4:15pm

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Hello Board members,

Dennis did not return home until 2 p.m. today and I didn't want to comment on the issues without first talking it over with him. Wednesday, after reading the transcripts from the 'on - line' board meeting and most of the comments from the property/homeowners, we both felt we'd like to add our thoughts but the timeframe had elapsed.

We are all neighbors and some of us have become friends as well at High Lonesome Ranch. We have seen 'ups' and 'downs' in our HOA over the years but this recent year has been very successful at resolutions and transparency. We are grateful for each person's efforts to make it so. Let's not rush into any action without enough time to sort it out both in monies and long term impact to the ranch as a whole. We agree that the proposed fence will NOT deter the cattle from the common area at the entrance by the windmill and the signs (already purchased) meet

our legal obligation. Could we not put these in place now and then reach a concession among us regarding this proposed fence? Remember, in previous years we were 'rushed' into the expense of a culvert which then had to be removed at a later date and additional money.

The roads are where most of our association monies are directed and they are only now becoming fairly consistent in the upkeep. Unforeseen weather and other factors could change that also. We are presently in a drought and both our properties/homes and the wildlife will need water to battle the wildfire season. Let's take a little more time to reach a conclusion about fencing in the common area at the entrance. Let's be more united than divided on our beautiful, 'practically perfect' country ranch estates. God bless us all at High Lonesome and God bless America.

Respectfully, Charlet & Dennis LePard

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From: Phyllis Cavanaugh  
Date: 18 Apr, 1:41pm

Hi All,

I was hoping to keep our discussion on one e-mail trail, but a few got started and you all may have missed the e-mail below. Please respond to this. Also, since the e-mail below was written, I have been told that Copperstate Fencing is not willing to extend their deadline, so we will have to start fresh.

Phyllis

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From: margaret baxter  
Date: 18 Apr, 1:46pm

I agree  
Margaret

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From: Adele Crouch  
Date: 18 Apr, 6:44pm

I agree

Adele M. Crouch, Treasurer

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**From: Phyllis Cavanaugh**  
**Date: 19 Apr, 9:37am**

**Hi All,**

**With 4 out of the 5 board members agreeing to table this conversation until the next meeting, I am adjourning this meeting on Saturday, the 19th of April, at 9:30 am.**

**Thank you,**

**Phyllis**

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From: Phyllis Cavanaugh

Date: 19 Apr, 10:11am

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Hi All,

Copperstate Fencing has indicated that they will extend the deadline for the quote until the next meeting as a gesture of goodwill.

Sincerely,

Phyllis

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*{A couple of acknowledgements from individuals that they had received the previous messages have been omitted. /JBL}*

**END OF TRANSCRIPT.**

**April 16, 2014**

Date: April 15, 10:38pm

From: Carl Gander

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Howdy!

Before I wade into this discussion about the potential water tank fencing, I would like to point out something about our BODs.

I find it quite interesting how we have BOD members on opposite sides of this discussion, and their comments supporting their own opinions are un-attacking and very professional. When you have BOD members who are not afraid to speak their opinions, and a Board that does not always agree&. that is very healthy. And yet, things get voted on&. issues get passed (not always unanimously)&.and the BODs moves on to the next issue. Very cool.

And it is refreshing to see how transparent this BODs is. Watching this back-and-forth discussion about this fencing discussion to actually be in writing for everyone to see will go a long way towards building trust. People will see that our BODs are indeed trying to do a good job with their focus on the betterment of the ranch for all of us.

I congratulate the BOD for this. And I need to do a shout-out for Greg Briner who is no longer on the BOD, but had a big part with his leadership in getting the ship-upright again and setting a positive tone for this current BOD. Again, thank you all for your fine efforts.

Now, on the subject of the fencing, I will be ok with whatever direction is taken on the matter. It really doesn't matter to me. But, if I was forced to make a choice, I would say NO to the fence. Almost a decade ago, when my wife and I first drove onto the ranch to look for property we commented on how cool it was to see cattle (Brahma Bulls) watering at the trough. That told us this was a rustic ranch property and a place we could fit in with.

And since I have the soap-box at the moment, I might as well say that I am VERY OPPOSED to any more signs on the roads on the ranch. Cochise County has always been known as one of the most non-urbanized counties in the state and it saddens me to see civilization beginning to encroach on our county. We can't stop that from happening to our county, but with regards to where we live here at High Lonesome Ranch Estates, let's not make the ranch look like Scottsdale.

Everyone have a great Easter.  
Keith Stanford

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Date: April 16, 7:00am  
From: Carl Gander

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I agree with Alisa 100%. But now that the issue of the trough being a violation of county code has come up, it may be money spent unnecessarily. Removing the trough may be a better option.

Carl Gander

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Date: April 16, 7:07am  
From: R W Barfield

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This is not a question of hating or not hating cattle. The board's previous decisions also demonstrate cattle roaming the roads, common areas and unfenced lots of the development is no longer a point of discussion. As Ms. Cook mentions, those are just distractions. I thought this was a discussion about whether or not the association is going to continue to allow the cattle access to our water at the community windmill, which causes them to congregate in large numbers there instead of where the owner is providing water for them. As reminded by Ms. Cook, however, the motion is about which bid to accept. The lowest bid is not always the best choice. Given that, I would like more information regarding the bids, particularly regarding the final appearance of the fence. If both bids result in a fence of identical appearance and construction AND the work will be done by a reliable contractor then the lowest bid makes the most sense. On the other hand, I've had bad experiences with some low-bid contractors failing to follow through, leading to more expense in the long run.

If the goal is to prevent cattle from congregating in that area shutting down the trough is an alternative solution that won't require a fence. It's a cheaper solution, takes away concerns about cattle pushing their way through the fence, and prevents any conflict with county codes, as pointed out by Mr. Gander.

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Date: April 16, 9:47am  
From: Barbara Brown

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I'm sure we have all spent money for advice from attorneys that wasn't helpful. If the Board had wanted a true opinion regarding cattle, they should have asked a livestock attorney.

If this was put out for discussion about which contractor to hire, then I missed something somewhere. There are three people, according to the emails, that feel strongly that the problem of "danger" from cattle. They have suggested that the problem of cattle on the entire ranch will be solved if we simply eliminate the trough water. This is pure silliness. It is painfully obvious that their true agenda is not with eliminating water so that the common area is safe, it is to eliminate cattle, period. This is not going to happen with the removal of the trough. Sometimes common sense needs to prevail. What if someone decides to swim in the big tank and drowns. Does this mean we should put a 12' fence around the tank so this doesn't happen? When did it become up to us to protect people from every perceived danger and they take no responsibility for themselves. The money these folks want to spend on this fence could be used more productively on roads. I do not want one dime of my dues spent for a fence.

On the plus side of things, the cattle maintain the common area for free. The manure will dissipate, or, as I mentioned earlier, the Board could ask the owner to drag the area. Simple, cheap solution for those who are insulted by looking at manure for the 10 seconds it takes them to drive by the windmill.

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Barbara Brown  
Wm. Brown Holster Co.  
Tombstone, Az 85638  
1-800-337-5250

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Date: April 16, 9:59am  
From: Greg Briner

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A few thoughts.

- Board decisions can be reversed by the Board
- Per the Boards email, see paragraph below, the email meeting was to discuss the proposals and "decide which if any" to accept.
- A bid will also be required to so property owners understand the annual maintenance required for cutting down the overgrowth.

"This is the required notice under law of an upcoming meeting by email of the HRLPOA Board of Directors. It will be held via email beginning Wednesday, April 9, 2014 at 7:00 am and ending thereafter when the agenda has been completed. The sole item on the agenda is to consider two proposals for fencing the windmill, tank and trough and then to decide which, if

any, to accept."

Thank you,

Greg Briner  
Lots 35,37,381

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Date: April 16, 11:47am  
From: Joe Alberti

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After reading the most recent posts and what now appears to be a county and state ordinance that the HOA may be in violation of, I would like to weigh in on the subject once more.

If in fact the HOA is in violation of the before mentioned ordinance the the discussion of constructing a fence around the windmill becomes a mute point, as the proposed fence would not eliminate wildlife from entering the common area to drink from the water trough. The only feasible option would be to remove the trough completely. This ordinance makes the Boards job and decision process easy as it leaves no options. Neither the board of the property owners can have it both ways.

What eliminating the water source will "not" accomplish is ensuring that cattle will not congregate and defecate where they choose on the ranch based on Arizona grazing and open range laws. Cattle will still have the ability and the legal protection to roam the ranch at will and if an accident should occur by someone hitting a cow/calf/steer or bull. The association cannot be held legally responsible once the proper signage is posted at the entrances to the ranch. The individual(s) who are involved in the accident can be held liable by owner of the cattle for damages occurred to their livestock.

My concern and question is this. Once the trough is gone and cattle are still roaming the ranch then what! What will be complained about next? What will be asked of the Board to do? What future arguments will be made to support ones personal feelings, desires and opinions? What next. What else can we look to fight about and disagree over. Who else can we single out to attack as is seems we are good at making the rounds. From gates across roads, to the style of peoples barns, to the color of someone's house, to water storage tanks, to ground clearing, to fencing, to solar panels, to cattle, to the windmill and water trough.....It goes on and on.. Its very sad...

Joseph R. Alberti  
rocco1012@aol.com

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From: Adele Crouch  
Date: 16 Apr 2014 12:00pm

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In view of recent information supplied by Carl Gander regarding the County Ordinance No.36-08, it is my opinion that we need to take a step back and consider the alternatives. Fencing the trough off is not going to keep the animals listed in the ordinance from accessing the trough

(bears, mountain lions, coyote, and javelina). I believe, in order to avoid a violation of the ordinance by the Association, we have no alternative but to render the trough incapable of containing water.

We are obligated to keep the windmill and holding tanks in operational order. Which means finding a way to permanently stop the flow of water from the holding tank to the trough and destroying the trough so that no water can accumulate. Yes, the trough has been there for years. However, the ordinance was passed in January of 2008 and this ceased to be a working cattle ranch 8 years prior.

Adele M. Crouch, Treasurer

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From: GREYWOLF HOLT  
Date: 16 Apr 2014 5:12pm

Adele,

The ordinance says nothing about water. By that logic, everyone who has cattle, horses or livestock would be required to do what? bottle feed them? Does your trough, Joes trough, Alisa's trough, Carl's trough and everyone's trough go? This is what it says with no mention of water....only food or garbage, refuse or edibles. The fact that we have water in a trough does not mean that we are intentionally tempting cattle, wildlife or human to drink from it any more than it would be if it was on anyone's land. If we had a pond, would we drain that? I think the PC and concern on this subject has gone off the charts and has assumed the ridiculous now. I think we should vote the fence yea or nay based on logic and total member opinion on the subject and not get so far in left field that we lose track of reality. I still think the signs will do the trick just like it does for the county and everyone else who faces the same liabilities. Leave the trough alone and put the signs up. Wolf

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From: Adele Crouch  
Date: 16 Apr 2014 5:41pm

Wolf,

In 102, the ordinance says: Attracting is defined as placing water, animal or human food, edibles, animal parts or carcasses, garbage, or refuse in an area where a reasonable person would be aware of the potential presence of wildlife."

It makes exceptions for livestock, horses, swine, poultry, or fowl. This would make Joe, Alisa, and Carl's trough excluded. Mine is in violation and has been emptied and removed.

I agree we should vote on the fence based on logic and the input from the property owners. Depending on the outcome, we go from there.

Adele M. Crouch, Treasurer

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From: GREYWOLF HOLT

Date: 16 Apr 2014 7:00pm

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I stand corrected Adele. I didn't realize there were 4 more pages. I saw the signatures and assumed that was the entire ordinance. I acknowledge the water, however I think the key to it is "recklessly" and "intentionally" and we are doing neither of those things. The trough was there when we bought and was built for livestock. The fact that wildlife, including birds, use it is incidental and in no way could be construed as "enticement" simply by being there. I don't believe the county, knowing that the trough is older than some of the residents here, would find it to be in violation in any respect. I think personally that the whole concern needs to be put to bed.

Wolf

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From: Phyllis Cavanaugh  
Date: 16 Apr 2014 7:37pm

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Hi All,

Well, what I thought was a simple discussion about which fence to choose has turned and twisted into a much more complicated conversation. At this time, I am going to suggest that we table this discussion and put it on the agenda for the next meeting. I am maintaining my motion but thing we need to discuss in person.

I am not making an official motion here, I am hoping we can reach a consensus by the board members to continue this at a live meeting. Do I have a consensus to table this discussion and continue at the next meeting?

I would like to thank everyone for participating in a respectful conversation. We have gathered a lot of food for thought. I would also like to remind the board members not to discuss this with each other outside of an open meeting. Thanks again!

Board members, do we have agreement that this has become too complicated to discuss and vote on via e-mail?

Sincerely,

Phyllis

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From: Adele Crouch  
Date: 16 Apr 2014 7:45pm

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I agree

Adele M. Crouch, Treasurer

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Date: April 16, 11:00pm



From: Joel B Levin

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I would like to add a brief explanation for one of Greg's points. There was never an official call for this meeting; I constructed the announcement, knowing already that there was some sentiment on the board and among the property owners against the fence, to include the phrase "if any". The wording of the call, however, is not binding. Even without those words, if a motion to choose a proposal was voted down, the result would be the same. So although, as Greg points out, the original call for this meeting included the possibility that we would choose not to erect a fence, the wording came straight from my own fevered mind and has no official effect on the proceedings.

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**April 15, 2014**

Date: April 15, 7:37am

From: Carl Gander

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Many of the board members have stated that signs will take away any liability. Why do we pay a lawyer for a legal opinion and then disregard it ? Is it money well spent to continue to pay a fee for legal opinions and then not listen or act on these opinions. By attracting cattle to the trough area by having water available, HLR HOA is responsible for the actions of the cattle. If some one is injured or a vehicle damaged and a law suit follows, as seen in all legal actions, every party involved will named in the suit. It will only take one incident to cost the HOA way more than the cost of a fence. Prevention of such a situation could save the HOA thousands of dollars.

Carl Gander

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Date: April 15, 8:44am

From: Carl Gander

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The legal issue is just one point. The lawyer said that the board is violating the CCR's by attracting cattle onto HLR property. The board is responsible ( as a duty in the bylaws ) to maintain common areas and can either build a fence or go back to the old system of draining and keeping the trough empty. Keeping the trough empty for an extended period of time ( a year ? ) might give us a better idea of what the cattle would do with no access to water at that area.

Carl Gander

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Date: April 15, 8:48am

From: R W Barfield

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An option not discussed is de-commissioning the trough while leaving the storage tanks and windmill in operation. Just shut it down or remove it. That is the most cost-effective option and alleviates the concerns expressed about maintaining

a fence and access to the area for maintenance of the vegetation.

RW Barfield

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Date: April 15, 11:01am

From: Carl Gander

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Dear Board, Please see the link to the Cochise County Code that concerns water made available to wildlife.

This code makes it illegal to provide water to coyotes or Javalinas. Please read the code to see the specifics.

Based on this code, we appear to be in violation. A fence would not solve this problem. Only draining or removing the trough seems to be a solution.

[http://www.cochise.az.gov/uploadedFiles/Board\\_of\\_Supervisors/08-06\\_01\\_15\\_2008%20-%20ADOPT%20ORDINANCE%20REGULATING%20CONTACT%20BETWEEN%20HUMAN%20AND%20WILDLIFE.pdf](http://www.cochise.az.gov/uploadedFiles/Board_of_Supervisors/08-06_01_15_2008%20-%20ADOPT%20ORDINANCE%20REGULATING%20CONTACT%20BETWEEN%20HUMAN%20AND%20WILDLIFE.pdf)

The section concerning water is in the actual code section.

Carl Gander

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Date: April 15, 2:36pm

From: Alisa Cook

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First, I want to thank the board for their transparency in conducting this meeting by email. It is refreshing.

On the point of the fencing, it seems that the board has already approved the fencing at a previous meeting. The question now is which proposal to accept, and this email meeting is being held because of a deadline with one of the proposals.

The motion and second are to approve the lower of the bids. So, the discussion should stay focused there. The side discussion about whether or not a fence should be installed is mute, since the BOD has already approved such action. The vote is only about which bid to accept.

This is, clearly, not a topic where we will all agree. There is no such topic, but discussion around the cattle does tend to be especially divisive. I would fully support a fence that would improve the aesthetics of the main entrance of the ranch, and would support using a tiny fraction of my dues working in that regard. The BOD has a responsibility to protect and maintain the common area, and doing so, in the most financially responsible manner is prudent. I support the motion to go with the lower bid. A small price to pay in order to approve the appearance of our entrance.

On the note regarding Ms. Baxter; if the vote is the simple acceptance of the lower bid (the actual motion on the floor), I see no need for her to recuse herself. However, if there is continued discussion, and motions regarding the installation of a fence at all, I think it would be proper for her to recuse herself from that portion of the discussion, and from a vote of that nature.

Thank you,

Alisa Cook  
Lots 13 and 20a

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Date: April 15, 10:15pm

From: Joel B Levin

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While I still have not made up my mind (I haven't finished reading everything yet, even), I would like to point out that while we are voting on a motion to accept the one proposal to build the fence, if the motion fails passage then revisiting the question of whether to fence or not becomes appropriate.

As to Ms Baxter, apparently she does not own any of the cattle concerned. If she is not positioned to benefit one way or another from the presence or absence of a fence, I am willing to trust to her judgement on the question of recusal.

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**April 12 - April 14, 2014**

Date: April 14, 7:16am

From: R W Bartlett

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Thanks very much for the email pointing us to a transcript of the meeting. Perhaps I am too late with my contribution but I would like to at least bring these comments to the attention of the board via email even if too late to be included in the discussion as part of the meeting. Joel, please forward this to the other three members of the board engaged in this discussion.

This discussion is about two issues.

First, the board has the obligation to maintain the community property. That includes the common area surrounding the windmill and includes maintaining the aesthetics of that place, not just maintaining the functioning of the well there and associated facilities. Fencing the windmill to prevent cattle congregating in the area will help fulfill this obligation as long as the fencing is done in an aesthetically pleasing manner.

Second, according to the board's own lawyer... not friends in the legal field but the board's own lawyer with experience in homeowner associations and Arizona law and who has researched this issue from several different perspectives... the association will be in violation of its own CCR if it "entices cattle onto the ranch" and could face other liability issues as a result, as the board is

already aware. Providing freely available water is enticing cattle onto the ranch at the common area surrounding the windmill. I honestly do not believe that issue is up for debate as anyone who travels Legend can see for themselves that is happening. Erecting a fence to prevent access to the water at the windmill will discourage the cattle from congregating in that area and will instead encourage them to congregate in the other areas where the owner of the cattle is providing water for them.

Erecting a fence around the common area addresses both of these issues and for that reason I encourage the board to approve the motion to erect a fence around the common area surrounding the windmill. The cost is not insignificant but is a wise investment when the possible long-term costs of continuing to entice cattle onto the association's common property are considered.

As mentioned by others, the signage addresses the liability issue of stray cattle being allowed to wander onto the development due to the cattle owner having removed fences that would have prevented that. Our legal liability in that regard is based on the notion that the cattle are straying onto the development, not being enticed there. Until the windmill is fenced, the association itself, rather than any one individual, is enticing cattle onto Legend and the common area surrounding the windmill. Signage warning of stray cattle does not change that fact.

Regarding the access of wildlife to the water at the windmill: The deer do not depend on the water at the windmill nor would fencing the common area deny them access to the water there. There are many other sources of water on the residential development as well as on the adjacent ranches. State law defines a "legal fence" as four strands of barbed wire "or equivalent" and is what is used by most ranchers in this area (some use five or more strands). As everyone must be aware, these fences do not inhibit the movement of deer. Adult deer go over the fence from standing starts with no trouble whatsoever. Younger deer easily go between the strands or rails of a typical four-strand fence but can have difficulty negotiating passage of a five-strand fence.

Since the removal of fencing along Legend as well as along Old Adobe and at the cattle guard on Gleeson, the cattle have free range to any part of the residential development, yet they are most often seen loitering at the windmill because of access to water there. Members who don't travel the road in that area may not be aware of how often that happens, or of the hazard they present by loitering in and near the roadway, or of the impact they are having on the ground and vegetation in that area. I travel Legend less often than others that live on that side of the development but when I do I frequently encounter the situation illustrated in the attached photographs. As you can see, the photos are recent, having been made after the trimming of the trees near the windmill.

Regards,  
RW Barfield

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Date: April 14, 7:23am  
From: Jeff and Christine Shelton lot 69

To HLR Board of Directors,

In my opinion a fence around the common area is overkill. Who's to say a fence is going to keep a 1500lb cow away from the trough anyway? I've seen cows bust through fences. I wonder if there isn't a more prudent, less costly means to meeting the association's "duty of care"?

Jeff and Christine Shelton lot 69

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Date: April 14, 7:28am

From: Douglas Crouch

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I am having a very hard time trying to justify why the property owners here at High Lonesome are being penalized for something which was built and in use for decades before any of us were born. The majority of owners purchased here because of the ranch atmosphere. That atmosphere includes cattle. It is my opinion that it is not the cattle causing the problem but that of some owners who for one reason or another hate cattle. If this is the case then I feel they are in the minority and they need to realize what type of community they purchased into. I am against making any kind of albatross around the water trough that takes away from the natural beauty of the ranch just to satisfy the minority. It is also my opinion that the proper signage informing those about the presence of cattle should be enough. This is the same thing the County does for people driving on the roads. Fencing off the trough is not going to make the cattle go away. They will still lay in the shade near the trough as they have done for years.

Douglas Crouch

<http://www.creationsbycrouch.com>

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Date: April 14, 7:49am

From: Carl Gander

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Dear board, from Carl Gander

Several thoughts,

1. I believe Ms. Baxter should recuse herself from this vote because of her close ties to the cattle issue.
2. The legal issue has been addressed by the lawyer and I believe he recommended fencing the area so that the HOA is not attracting cattle onto common property.
3. The Board is responsible for maintenance of the common areas. If no fence is installed what will the board do to keep this area maintained ?
4. The area around the windmill and trough is having an effect on our property values. I spoke to a real estate agent who said that they are embarrassed to bring any clients thru the windmill area.

As the main entrance to the properties, it sets the tone for the condition for the entire ranch.

5. Saturday morning, 28 cows were in the windmill area and milling around in the road. Without access to the trough, hopefully these cows would go to the water supply on the state land.

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Date: April 14, 9:09am

From: Bill and Barbara Brown  
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Bill & I are submitting our opinion regarding the fencing of the trough, etc.

The attorney has suggested we do what we can to make sure we don't entice the cattle to the common area. This was a suggestion only. If our attorney were familiar with livestock, he would never have made such a suggestion because he would know this will do absolutely nothing towards preventing cows from laying in the common area. In fact, you may find you have compounded the problem by fencing the area off and now the cows will lay IN the road instead of off to the side. Fencing off the trough will do nothing towards eliminating any ill perceived danger from a cow.

I have read the email comments regarding the fence. These are logical arguments. Therefore, I'm not sure why we are going forward with this. Since a majority of the Board does not want a fence and most likely a majority of the homeowners do not want the area fenced, why are we doing this?

The reason for fencing is the hope that it will prevent cattle from coming to the common area. And, if there are no cattle in the common area, then the homeowners living here will be safe from the dangers of a cow. I'm hoping you can see that, No. 1...no cattle will be prevented from laying in the common area; and, No.2..that in the 14 plus years of people living on High Lonesome, no one has been injured by a cow. Plus, I would like for the Board to tell us how fencing the trough will prevent a possible injury in any other area of the ranch. Even the highway department uses signage. Signs are adequate, leave the common area as it has been. It was suggested that things have changed from when we first moved here. I disagree with that. It still looks the same, the traffic is still the same.

A homeowner has said he would sue if he hits a cow. I think he will find that it's not that easy and the law is not on his side. We know this for a fact. How is fencing the trough going to prevent someone from hitting a cow.

One last comment in reply to the feeling that if it were fenced, then "they" will not lay in the road "as much". I would respectfully respond that this is an admission that the fence won't work. I assume the sole reason for fencing is to prevent cattle from hanging around the common area. If it doesn't do that, then what is the reason for spending a lot of money just to keep a few and not all cattle away.

You have two choices when it comes to manure. Ask the owner of the cows to "drag" the area and scatter the manure so it isn't easily seen; or, wait until monsoons and it will wash away. This problem is easily resolved and no money involved. Micro-managing a small water source is not

going to change anything but our bank account. There are cows all over this ranch.

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Date: April 14, 9:31am

From: Whitney Malone

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Just putting my 2 cents in. I am opposed to fencing the well and water trough. I agree that cow poop is unsightly however we are in cattle and horse country and it is a natural occurrence. We are not in a Beverly Hills gated community so I accept the ranching inconveniences. Also, just to bring up a bitter subject I think the money should be better used for Foothills since no one seems to give it the consideration it needs.

Whitney

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Date: April 14, 9:49am

From: Carl Gander

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Can you post the fence proposals ? It is hard to make a decision about aesthetics without seeing what is being proposed.

Thanks, Carl Gander

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Date: April 14, 11:14am

From: Carl Gander

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Dear board,

After looking at the area by the windmill / trough, I see a problem with the fencing proposal. By not fully enclosing the area, the owner of lot 11 could just take down the fence between his lot and the windmill / trough area and leave the gate to Old Adobe Lane open and the cattle would have full access to the trough.

The board would either have to have an agreement from the lot 11 owner to not remove this fence or would have to put up a fence along this border to insure that the cattle do not have access to the common area.

As many of the fences that restricted movement of the cattle onto HLR have been taken down, I hope the board will consider this before making a decision about the plans for a fence.

Carl Gander

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Date: April 14, 6:42pm

From: Greg Briner

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Here is my response to the Board email meeting regarding fencing cattle out of the main common area by the windmill.

I feel the key to this matter about cattle in any common areas is "notification". By installing the signs you are putting all property owners on notice that cattle are present and all should use caution while traveling HLR roads.

The purpose of the discussion to fencing in the common area by the windmill was to keep cattle from the water. In reading the Board's email meeting the discussion has turned to manure around the windmill and the unappealing appearance. I don't think this has any relevance to the discussion about protecting the Board from being sued by property owners should someone be injured by the cattle.

If the Board takes the necessary actions by notifying property owners of cattle on HLR common areas I don't feel spending thousands of dollars to fence out is necessary. This money can be better used for future road projects/work.

The Board needs to make the determination as to what issue is of more importance and warrants spending property owners monies. Fencing a portion of the common area will not, in my opinion, keep the cattle away as they have access to plenty of water only a short distance away. Fencing in the common area will not eliminate the need to maintain it as it will eventually become overgrown and have to be mowed from time to time depending upon the rains. The fence will not eliminate cattle from spreading their droppings on the unfenced areas as well as the roads which are considered common areas and require that the Board maintain them as well.

I recognize that this has been a sore point and has been discussed in great detail and no action is going to satisfy all of the property owners and their opinions.

Thank you,

Greg Briner

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{From: Margaret Baxter}  
Date: Mon, 14 Apr 2014 10:03pm

Hi all,

After reading the emails that has come through, I would like to make a few comments. I do not feel that I need to recuse myself from this since I do not own any of the cattle located here at HLR.

Also, I have been doing alot of thinking and would like to point out a few things as follows:

- 1) The livestock signs should remove any liability from HLR being sued. The county has them on the roads to protectthem from liability.
- 2) If you do not want cattle around the windmill/trough then yes there needs to be a fence. But putting up a fence will not keep them from laying in other areas around the fenced in common area.
- 3) Who is going to maintain the fence once it is installed. (Keeping the wire tight, fixing the broken strands from deer, replacing the wooden stays, etc...)?
- 4) Mark Shelburne mowed the common area twice last year to keep it from having over growth.



Who is going to keep the maintenance up on the ground? Are we going to hire someone and if so where is the money going to come from?

5) If the common area is not maintained from over growth, which is a lot, there will be more snakes than usual. My concern is someone goes into the common area for whatever reason and get a snake bite, I feel HLR would be responsible for not doing maintenance on the common area.

6) Before a fence can be built the old tree that has been cut down needs to be removed. Who is going to remove that?

7) Should we spend this money on this when it could be better spent on the roads in which everyone travels?

These questions have been going through my mind and yes a fence would keep cattle and their poop out of the common area but not on the area located outside of the fence. I feel like it would just be a start to other items listed above.

This is only my opinion and I will go along with the majority.

Margaret

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**April 8 - April 11, 2014**

From: Phyllis Cavanaugh <hlrphyllis@gmail.com>

Date: Tue, 8 Apr 2014 15:20:46 -0700

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Hi All,

I will start the e-mail meeting about the fencing as soon as I can. I will be able to get it started tonight when I get home from work.

Thanks!

Phyllis

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From: Phyllis Cavanaugh <hlrphyllis@gmail.com>

Date: Tue, 8 Apr 2014 20:45:57 -0700

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Hi All,

For the benefit of all property owners, I would like to give a small history and summary regarding the issue of fencing the common space.

The issue of fencing the common space came about when the board began receiving complaints about cattle congregating at the water trough and cattle in general grazing on HLR property. The board made a determination that there was no legal recourse to preventing cattle from the

adjacent grazing lease from wandering onto HLR as there is no fence and we are an open range community.

When the lawyer was consulted, he recommended that we consider protecting our common space, particularly the trough, from use by the cattle as that may create a danger on the road or may be perceived as enticing the cattle onto the property.

The board decided to move forward with the fencing and formed an ad hoc committee to meet and decide on the how much of the area to fence and also get estimates to bring to the board. There was property owner discussion and input at several board meetings prior.

The committee met and suggested that the fencing would be more attractive and effective at deterring cattle if it enclosed a large portion of the common space rather than just enclosing a small area around the trough. Property owners had expressed a desire for wildlife to continue using the trough and also to still be able to see the trough.

The committee decided to recommend enclosing the entire common space from the holding tank back and to tie the fencing in at the corners of the Shelburne fence on either side. They recommended tying the fence to the side of the holding tank while still leaving a portion of the tank outside of the fencing, so that, in the event of a fire, the fire trucks could reach the holding tank without having to deal with a fence and a gate. Also, this would keep the drive-up area open to allow easy access to the tank for property owners that wanted to get water.

They recommended wire fencing with wooden stays to allow visibility and also an area that was made of rail to allow deer and other animals to be able to easily jump that portion of the fence.

They presented two estimates for this project and this is why we are having this meeting. There was a limit of 30 days on one of the estimates so an e-mail meeting was recommended rather than convening a live meeting to talk about just this one issue. Also, the issue had been discussed at a several live meeting already.

This concludes my history of the fencing issue.

We have two estimates. One includes materials at \$1990.32, labor at \$1,644.81, tax at \$219.47 for a total of \$3854.60 The second estimate includes materials and labor at \$2,264.84, tax at \$90.58 for a total of \$2,355.43

I believe we have several issues to discuss: Should the estimates be private or available to the members? Which estimate should we take, or should we seek out additional estimates? How will we pay for the services?

I am now opening the meeting for discussion by the board. That discussion will then be sent via e-mail and posted on the website for a period of time for feedback by property owners prior to

any vote.

Please feel free to jump in and give you opinion or a motion at this time.

Sincerely,

Phyllis Cavanaugh  
President, HLR BOD

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From: Adele Crouch <adelemcrouch@gmail.com>

Date: Wed, 9 Apr 2014 07:00:05 -0700

I would like to start by saying I have been against the fence since it was first suggested. I always felt there should be other alternatives to eliminating the liability of the Association. As I recall, a majority of the people who are currently on the board didn't want the fence either. I have given this considerable thought and believe the signs that have been purchased and will be up soon would cover any legal issues that may arise as they make it clear to any who enter the ranch that there are cattle and other animals present.

In addition, the expense of the fence is a lot of money that could be better spent on road repairs. We have no funds in the budget for the "common area" which means the funds would have to come from either the road repair fund or the reserve fund.

If the board decides the fence is an absolute necessity, I will address the estimates. I used one of the people who made an estimate. My experience was frustrating to say the least. However, he did finally completed the job and I was happy with the project. Since his price is \$1,499.17 less, it is the most logical choice. However, I still believe the signs are all that is needed and they are already paid for.

Adele M. Crouch, Treasurer  
High Lonesome Ranch Estates

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From: margaret baxter <hlrmargaret@yahoo.com>

Date: Wed, 9 Apr 2014 08:42:59 -0700 (PDT)

Hi All,

Adele is making a very good point and I agree with her.

Margaret

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From: GREYWOLF HOLT <wolfsta99@yahoo.com>

Date: Wed, 9 Apr 2014 13:49:19 -0700 (PDT)

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I guess it is a "me too" on this issue. I have not seen a need for the fence from the start. It will do nothing to deter cattle on the ranch and it hasn't been an issue since we have been a ranch association for the last 12 or more years; or since being released from control of the declarant whenever that was. Cattle have always been a part of the ranch and never, to my knowledge, has it been an issue of safety or concern except by a couple of people who always seem to find fault with something. I think their concern was cow poop, and that won't change by the fact of a fence being erected around the trough. I agree with Adele that the money could be spent more wisely elsewhere and signs warning of cattle should be sufficient for safety concerns. The mere fact that the state law permits free roaming of cattle should in itself protect the association of any liability.

I would think that free roaming cattle causing injury would fall back to the owner of the cattle and not to a landowner who has no control or ownership of them. As I read the law, the only criteria for a landowner regarding cattle is to fence them off if they don't want them on their property. If the cattle damage property, the cattle owner is responsible. I would think the same would apply concerning injury. Regardless, fencing off the trough solves neither issue and the cattle will still roam on HLR as before.

As to point two, the cost of the fencing. It is obvious that a nearly \$1,500.00 difference is noteworthy in the bids. Like I stated previously in another email, it is after all a fence, not an addition. I know that Adele had a problem with this contractor as far as time involved to construct her project was concerned, but I know from being a general contractor for thirty years, that controls can be in place to prevent that from happening. I can insure that the proper controls be inserted in the contract that will assure a timely completion and workmanship quality satisfactory to the wishes of the contracting parties. I stand by my previous thoughts on leaving the status quo, but will abide by the wishes of the majority.

Wolf

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From: Phyllis Cavanaugh <hlrphyllis@gmail.com>  
Date: Wed, 9 Apr 2014 16:01:54 -0700

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Hi All,

I am going to respectfully disagree. I think that there is an issue with "cow poop" at the well that detracts from it's beauty. We have received complaints about this and nothing has been done. It is not the responsibility of the cattle owner to clean up after the cows, it is our responsibility to "maintain" the common space. So, who is going to do that? If we do not fence the area, this problem will persist and there will be continued complaints. We will have to hire someone to regularly clean the common space and that will add up over time and cost us more in the long run.

I also disagree that if there is an injury due to cattle at the ranch that it falls back on the owner and not the association. I have been told directly by one property owner that he would sue the

board if he hit a cow while driving on HLR roads. He felt that strongly about it.

I also do feel that the water does attract the cattle to the HLR ranch. When they spend time congregating at the well, it does create a hardship at times trying to drive out and get to work. If the water was not available to them, they would not be in the road as much.

Lastly, we have been counseled by the lawyer to make a good faith effort to deter cattle from being enticed onto HLR property by the water. The environment is different now than it was when we first moved here and had cows roaming around. People are divided and angry about this issue and I think that fencing the common space and maintaining it will go a long way in starting to heal our community.

Honestly, I am not sure why we are even having this discussion as the fence as already been approved and voted on. This meeting was supposed to be about making a decision. This issue was discussed at two meetings and no board members voiced any concern about the decision. Two people have already come out to make a good faith estimate. I believe we owe it to the community to follow through with our commitments.

I would like to make a motion to accept the smaller of the two estimates and begin work as soon as possible. Do I have a second? Sincerely,

Phyllis Cavanaugh

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From: Adele Crouch <adelemcrouch@gmail.com>

Date: Wed, 9 Apr 2014 18:40:42 -0700

Do you want to amend your motion to include how we will pay for it? Or do you want that to be a separate motion?

Adele M. Crouch, Treasurer

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From: Phyllis Cavanaugh <hlrphyllis@gmail.com>

Date: Wed, 9 Apr 2014 19:01:05 -0700

I am fine with my motion. That can be a separate discussion if it passes.

Thank you,

Phyllis

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From: GREYWOLF HOLT <wolfsta99@yahoo.com>

Date: Thu, 10 Apr 2014 11:40:36 -0700 (PDT)

I understand your concern Phyllis and I know that we have passed the fence proposal to be done as voted on, but still I have a concern as to the necessity of it even though it was approved as noted. I only raise this because I still, in my heart, don't see that it will prevent or deter any possible legal action more than signage would simply because perceived liability not only extends to the common area, but to all the roads on the ranch as well. The roads are owned by the association and maintained by the association. There has been debate in the past about private homeowners possibly maintaining the roads individually and liability concerns were always raised. When we wanted to get a different contractor for the roads, liability concerns were raised then as well. Now, what if a cow is on the road and a resident or visitor hits it, are we libel or does the fence around the well protect us from it? The cow poop will remain even though the trough is fenced and the only area free of it will be the fenced in common area. The cows will still roam the perimeter and rest by the road and walk in the roads as before and poop where they will. If we are fencing as a good faith issue as per the lawyer, then it should also hold that the good faith protection will extend to all areas of the ranch. If it doesn't, then the point now falls to aesthetics rather than actual liability concerns. If it falls solely to aesthetics, then the money is ill spent. If it is beneficial to safety and liability as hoped for, then it is money well spent. As I previously stated, I will go with the majority in this regardless of my personal wishes. I am simply stating my opinion here for consideration.

Wolf

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From: Adele Crouch <adelemcrouch@gmail.com>

Date: Thu, 10 Apr 2014 16:22:33 -0700

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It has been over 24 hours since the motion was made. Is it dead? If so, what next?

Adele M. Crouch, Treasurer

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From: GREYWOLF HOLT <wolfsta99@yahoo.com>

Date: Thu, 10 Apr 2014 17:34:26 -0700 (PDT)

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Joel notes in his email to the membership:

"This meeting is not an executive session, so for transparency it will be conducted thus: after discussion of the agenda item among the board including any motions or policy issues that may arise, but prior to any decision or vote, a transcript of the email meeting will be published on the HLRPOA web site. At this point the board will welcome comments by email from all property owners (also to be published) for a period of time that will be announced, probably 24 hours. Following the comment period, the board will continue its discussion and take any necessary decisions. (It is possible that some new motion or amendment to a motion will necessitate another comment period for property owners.)

"When the agenda item is finally resolved, the remaining transcript of email, the vote(s) and final outcome will be published."

With this in mind, and knowing that before a vote is cast to accept or reject the bid offered, membership input may determine whether or not to actually go forward with the project as originally voted on by the board previously. I am willing to second the motion of bid acceptance as proposed by Phyllis, however I would like to insert this caveat first. we have thirty days to accept the bid as proposed so while time is critical for it, it isn't so critical that we can't allow a two days time, or other agreed on time span by all board members, for members feedback first before actually committing to it. It may require an amended motion at that time and also, as Adele pointed out, we need to determine where the funds will be taken from by a separate motion. It may be reasonable to withdraw this motion in favor of combining the two after input is received. I just want to make certain that all agree (mostly) that fencing the area will accomplish what we intend it to do and that the money we commit to the project is seen as worthwhile. Joel notes 24 hours in his email, but leaves it open ended. We can continue this thread and simply put it on hold rather than announce another session, and continue it after we receive whatever feedback is available to us. Thoughts?

Wolf

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From: Adele Crouch <adelemcrouch@gmail.com>

Date: Thu, 10 Apr 2014 18:55:45 -0700

With a motion and a second, I would like to ask some questions. As stated above, Joel said this would be published on the HLRPOA website to open it for discussion from property owners.

What about the owners who don't look at the website? Shouldn't an email be sent to all PO's at the same time it is published on the site? Also, is the motion now open for discussion by the board?

Adele M. Crouch, Treasurer

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From: Joel Levin HL Board <jbl@SpanishBit.com>

Date: Thu, 10 Apr 2014 21:58:28 -0700

This is a separate discussion about procedural matters. I haven't done something like this for a long time, and I don't think this board or association has ever; so no rules or procedures really exist, much less sit in concrete.

I want to publish all our discussion before and after the motion is made up to the point everyone appears to have had his or her say but before a vote is taken. Then member and board comments would be acceptable and added to the record; finally the vote and any final discussion up to adjournment of the meeting would be published. That's straightforward.

I can collect the emails (and snip out all the quoting and quoting, of course) and place it on the web site; this is no problem. The question of spamming it (two or three times) to the entire

mailing list, which already you must be aware does not include the entire membership and which does include some bouncing addresses, vs. publishing on the web site and mailing one short notice to the list (and another after the meeting) containing the link, is the hard question. I am inclined not to send out messages with large documents attached. But the decision is not mine (alone) to make, so we can talk about that while I prepare the information for the web site.

Finally, as I stated in my original letter, I think, I will honor requests for anyone to mail them the transcripts as they are revised.

And for what it's worth, the motion is now open for discussion just as the topic was before there was a motion, until we take an actual vote. Talk on!

Regards / JBL

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From: Phyllis Cavanaugh <hlrphyllis@gmail.com>

Date: Thu, 10 Apr 2014 19:49:58 -0700

I have been traveling and was expecting that Joel would chime in, but he hasn't, so, since we have a quorum and I did not get a second, someone else should make a motion and see if there is a second. Then we would send it out for comments by e-mail for all property owners. I think we should give the comments until Monday. Then we will come back and discuss and then vote.

Anyone else want to make a motion?

Thanks!

Phyllis

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From: Phyllis Cavanaugh <hlrphyllis@gmail.com>

Date: Thu, 10 Apr 2014 19:56:17 -0700

Hi All,

Sorry, I did not see Wolf's second. So, we do have a second. Now, our discussion on the subject will cease until I discuss with Joel, exactly how to send this out to all property owners. I agree, Adele, that it should be e-mailed and not just put on the website. I will discuss with Joel how to e-mail a link to a page that can be updated as the comments come in. That is why I think we need to wait until at least Monday so that we have a chance to do this. Thanks!

Phyllis

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From: Adele Crouch <adelemcrouch@gmail.com>

Date: Thu, 10 Apr 2014 20:07:19 -0700

I'm confused. The board will not have any discussion before opening it to the PO's for their discussion?



Adele M. Crouch, Treasurer

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From: Phyllis Cavanaugh <hlrphyllis@gmail.com>  
Date: Thu, 10 Apr 2014 20:11:55 -0700

Yes, our e-mails crossed. Feel free to add any further comments.

Thanks,

Phyllis

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From: Phyllis Cavanaugh <hlrphyllis@gmail.com>  
Date: Thu, 10 Apr 2014 20:10:02 -0700

Hi Again,

Sorry, feel free to have any final comments, then out to property owners. I'll try to contact Joel in the am. Thanks to everyone for the participation!

Thanks,

Phyllis

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From: Joel Levin HL Board <jbl@SpanishBit.com>  
Date: Thu, 10 Apr 2014 22:05:15 -0700

I've addressed this now -- I think an email notice that includes a link to a page that will be updated is the way to go.

Regards / JBL

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From: Phyllis Cavanaugh <hlrphyllis@gmail.com>  
Date: Fri, 11 Apr 2014 06:58:04 -0700

Hi All,

Thank you Joel, I thought a link sent out to a page was the way to go, glad you could make it happen.

Joel, we haven't heard your thoughts on the issues yet. Let's give it until Saturday am for the rest of our discussion.

Joel, you and I can work out the details separately regarding getting out to property owners - let's

leave this link for discussion of the issues. It is still open for discussion.

Phyllis

From: Adele Crouch <adelemcrouch@gmail.com>

Date: Fri, 11 Apr 2014 07:03:16 -0700

The only additional discussion I have at this point is that we, the Board of Directors, have a responsibility to act in a manner that is in the best interest of the Association as a whole. As the treasurer, I have the responsibility to try to ensure that any funds used from the Association accounts are spent wisely and prudently. I do my best to keep these objectives in mind when making decisions and when finances are involved, I take the responsibility of treasurer very seriously.

Adele M. Crouch, Treasurer

From: "Joel B Levin HLRPOA Board" <jbl@spanishbit.com>

Date: Fri, 11 Apr 2014 07:37:59 -0700

One thing I had hoped to add to the discussion early on was a description of the fences the two contractors offered to install, as there are reasons that one was so much higher than the other, and some might prefer the higher cost alternative for aesthetic reasons.

As to the fence itself, I'm of mixed feelings; I think it's overall a good idea from the legal point of view (manure doesn't bother me as much as it may other people, but I have spent more time around cows than a lot of horse people I know); but on the other hand I am not persuaded that it's worth the money. I have not yet decided how to vote, so I'm continuing to read the discussions.

On the subject of the transcript of the mail to date, I plan to get it on line tonight or more likely tomorrow.

Regards / JBL

From: Phyllis Cavanaugh <hlrphyllis@gmail.com>

Date: Fri, 11 Apr 2014 08:05:33 -0700

Thank you, Joel and Adele for the additional comments.

Adele, we are all responsible for spending the property owner's money wisely. But, with that said, I am glad you are here to keep finances at the top of our minds.

Phyllis

*{This comment from a member was received prior to the meeting for inclusion in this discussion. /J B Levin}*

Sunday Apr 6 2014

From Joe Alberti

To board@hlrpoa.com

Dear HLR BOD,

After much thought and careful consideration I would like to express my thoughts and opinion about fencing off the the common area around the windmill and the water trough.

I have been in discussion with some personal friends who are in the legal field and we have discussed the situation here on the ranch with the cattle and the water trough. Without going into unnecessary detail and small talk. I am opposed to fencing off the water trough and feel that those funds can be put to better use on the roads.

The water trough, windmill and cattle have been on the ranch for years before this part of the Cowen cattle ranch was sold to the developer. Even once the developer took possession the water trough and the windmill were always operational and cattle were always on the ranch for most of its existence. The HOA's maintaining the windmill and keeping the trough operational and full is not causing any incentive for cattle to be here. The HOA did not construct the windmill and water trough and then the cattle came. The windmill, the water trough and the cattle were here before we were.

All that is required to protect the HOA are the caution signs stating open range loose livestock. Maybe a few more signs can be ordered and placed throughout the ranch to insure that they are seen. Its a lot cheaper and creates less problems then fencing in the common area.

My vote as a property owner is not to fence in the common area.

Thank you,

Joseph R. Alberti  
rocco1012@aol.com