



Ad Hoc Cooper Land Evaluation Committee

Final Report

20 July 2022

Executive Summary:

The Ad Hoc Land Evaluation Committee has reviewed and toured all the Cooper Communities Inc (CCI) reserve properties that are for sale. Of the 52 CCI reserve properties, 13 were deemed to have POA equity and should be pursued by the POA to gain ownership, dedication, or easement rights. Additionally, there is one boundary property that was also identified to be needed by the POA.

CCI has been extremely helpful in this endeavor and continues to be a huge advocate for Hot Springs Village (HSV). They are willing to take action to provide the required reserve properties to the POA for a nominal cost associated with surveys, county recordings and two or three purchases for a reasonable price.

To determine which properties were “needed” by the POA the committee used objective criteria to aid in the assessment of need. This criterion consisted of 1) existing infrastructure on CCI reserve property (gates, water tanks, etc.), 2) amenity infrastructure such as golf cart paths, parking, and trails, 3) future use needs, 4) impact to property owners and businesses and finally 5) cost. To evaluate the properties the committee traveled to and walked each reserve property.

To aid in this effort CCI provided to the POA a map of HSV with reserve property identified in red and with a “P” number for reference. Those with a “P” number are the reserve property that is currently for sale. The map was updated by CCI during the Committee’s work with recent sales being removed from the map. The properties that are for sale are those we evaluated, with one exception which is the boundary tract encompassing Danville Gate. CCI still has several properties that are boundary parcels meant to protect HSV and they are not currently for sale. They are represented on the map in red but with no “P” number associated with these reserve properties (See Attachment 1).

In our detailed analysis of the properties, we used the Garland and Saline County tax office websites and GIS, POA GIS, POA staff and CCI as references.

In this analysis we determined that the West Gate stone walls, fountains, the ill-fated sign with associated landscaping, ingress, and egress lanes are already POA land, deeded to the POA in 1971.

There are East Gate tracts that are not part of POA land, however, CCI intends to quit claim deed those to the POA. These parcels were apparently reserved from platting adjacent subdivisions for the future widening of DeSoto Blvd and provide the sites for signage.

There are several legal issues: 1) related to easements and existing infrastructure, especially infrastructure under the ground such as water lines and sewer lines. We believe the POA should have a legal opinion of our rights regarding this infrastructure provided by the Rose Law Firm. 2)

There may also be POA rights-of-way by prescription to the existing infrastructure under Arkansas law. The committee believes the POA should have a legal opinion on these rights. 3) Ask the Rose Law Firm to provide a legal opinion on rights gained by having a road dedication to the POA. 4) With respect to the Cedar Creek property owned by CCI (P100, P101) there are concerns regarding the water flow from Lake Coronado to Lake Balboa and the associated water rights and potential impacts to those right and liabilities should the Cedar Creek property be sold to a private entity and especially if granted rights to not be part of HSV. Therefore, the Committee believes it necessary to have a legal opinion on any and all legal rights and issues associated with water flow feeding into Lake Balboa that could impact the property owners living on or around Lake Balboa. 5) Ask Rose Law Firm for a legal opinion on purchasing the Cedar Creek properties (P100, P101) as infrastructure and designation status within the POA. 6) Finally, the POA Board should consider drafting a legal document requesting the first right of refusal for the sale of Cedar Creek (P100, P101).

Additionally, the committee garnered additional insights during this task and believes it is important for the POA and the Board to fully understand that as CCI sells reserve property they have the right under the Declaration to grant the buyer the option to either be part of HSV or not (meaning that parcel may not be under the existing Covenants and Declarations of Hot Springs Village). CCI bases this decision on whether the property can be accessed from outside the village and does not utilize any POA utilities. This could be a factor for the Cedar Creek (P100, P101) property and must be considered by the Board in the future. It is of the opinion of the committee that this clause should be discussed with the Rose Law Firm to determine if there are agreements that should be pursued by the POA Board with the CCI Board on future sales.

The Committee had several working group sessions, members visited the county recorders offices, and we reached out to Hot Springs Title Company for some gratis work on legal and deed searches. CCI also provided detailed plats, deeds, and legal descriptions to most all the properties. We also reached out to the POA staff and POA committees to confirm information. We had two video sessions with CCI and numerous email/phone calls to determine CCI intent and what is possible regarding the identified properties where POA equities were present. This provided the committee the information by which we base our recommendations to the POA Board, represented below:

Overall Recommendations

It is the recommendation of the committee that the following actions be taken as soon as possible by the POA Board and GM:

1. Contact CCI to formally request the following properties be quit claim deeded to the POA and authorize payment for any survey and recording fees:
 - 5 Water Tanks - (P2, P5, P11, part of P29, P30)
 - Danville Gate – Conduct a survey and quit claim deed just the gate from the boundary parcel
 - Lake Lago – P80
 - DeSoto Golf Cart Path – P110
 - Cedar Creek Wastewater Treatment Plant/Beaver Dam Trail – P87
 - Multipurpose Trail – P109
2. Purchase Coronado Golf Cart Trailer Parking Lot reserve property at P3 for \$5000.00 plus any survey (if needed) and recording fees.
3. Work with CCI to “Dedicate” or otherwise convey the road leading off Ponce de Leon Drive, shown on some maps as Cloaca Lane, together with co-located infrastructure for access to the Cedar Creek WWTP, Beaver Dam Trail and the private property storage area that goes through reserve property P90. Authorize payment for any survey and recording fees.
4. Direct the GM/POA staff to work with CCI to establish easement language in the Deed for reserve property P54. The easement should account for: 1) the maintenance access/road to Balboa Dam/levee. 2) The golf course irrigation system which includes the pump house and pipelines running from Balboa Dam to Magellan Golf Courses (providing irrigation water for Magellan, Isabella, Granada, and Ponce golf courses). Authorize payment for survey and recording costs.
5. Authorize payment for the recording costs and survey costs as needed for the all the identified reserve and boundary properties recommended in this report. Recommend you use B&F Engineering Company to do all survey work. They have done all the survey work for Cooper and have the historical records and knowledge to accomplish this task in the most cost effective and expeditious manner. B&F Engineering Company, 928 Airport Road, Hot Springs, AR 71913, (Phone) 501-767-2366, (Email) info@bnfeng.com.
6. Authorize payment to survey reserve property P100 to meet Sanitation / Street Department requirements. The Sanitation team will need to identify their specific needs to the surveyor. Then, negotiate with CCI for a reasonable purchase price for this land. The committee recommends purchasing the additional land given a reasonable price can be negotiated and it is acceptable to the Board.
7. Direct GM/Staff to work with CCI in contacting Saline County to update the county GIS website regarding the East Gate.
8. Direct Staff to update the HSV POA GIS. Consider marking underground water and sewer lines that run on CCI reserve property.
9. Task the Rose Law Firm to provide legal opinion on:
 - a. Easement rights for water and sewer lines that are not currently documented in

- deeds and how this gets conveyed during a current sale of reserve property
- b. Rights-of-way by prescription for existing infrastructure and trails on reserve property.
 - c. Rights gained by having a road dedication to the POA.
 - d. With respect to the Cedar Creek property owned by CCI (P100, P101) provide a legal analysis on water rights and issues regarding the flow of water and quality of water from Lake Coronado to Lake Balboa via cedar creek. The opinion should address Arkansas rights under the law should the creek be sold to a private entity and CCI grant them the right to not be part of HSV.
 - e. Purchasing the Cedar Creek properties (P100, P101) as infrastructure and designation status within the POA.
 - f. Ask the Rose Law firm to draft up a first right of refusal agreement with CCI for P101 (Cedar Creek Trail Property). Ensure the agreement provides the POA Board time and decision-making space should this clause be executed.

AUTHORITY:

The Ad Hoc Cooper Land Evaluation Committee was formed by the POA board to assess and evaluate the remaining CCI reserve properties for sale and to provide the POA Board with recommendations to move forward.

DUTIES AND RESPONSIBILITIES:

1. Determine the facts concerning Cooper land that is for sale in Hot Springs Village and if there are reserve properties the Village should consider obtaining.

This includes but is not limited to:

- a. Review Cooper land holdings in Hot Springs Village – completed.
 - b. Research and possibly visit onsite parcels that are of interest – completed.
 - c. Provide a detailed list of findings that are of interest and those that are not of interest and include: ♦ map number ♦ legal description ♦ physical address ♦ common location ♦ number of acres ♦ price if available.
2. Recommend to the Board what land parcels should be pursued and why or should not be pursued and why – completed.
 3. Recommend, for the parcel(s) that should be pursued, options that could be used to acquire them – completed.

RESEARCH:

The committee has completed its research of the identified CCI reserve properties. To accomplish this task, we first visited and walked all the properties. During the visit to each property, we looked for existing infrastructure and/or POA equities associated with these properties. We also considered future use or needs. These future needs were based on guidance from the Board, GM, and POA committees of which we had representatives from all POA committees except for the Golf committee. For the golf committee we obtained information from the committee on the specific areas they felt were of interest to the POA.

The Committee established objective criteria to evaluate the properties:

- Existing infrastructure such as Water tanks, gates, etc.
- Amenity items such as golf cart paths, parking, and trails
- Future use for infrastructure or recreational use
- Ability to sub-divide the property
- Easements and dedications
- Tax basis
- Impact on property owners and commercial businesses

Note: We used the CCI provided map of all the properties they have on the market and CCI updated that map after our initial contact based on 5 recent sales (See attachment 1). We also compared this map to the POA GIS system and to the Garland and Saline County GIS systems. There are some discrepancies in the data, therefore it is recommended that the POA along with CCI work to correct these discrepancies identified in this report as a minimum.

We had two video sessions with CCI and numerous email/phone calls to review the properties and ask questions of CCI and CCI questions of the committee. We were able to obtain new information from CCI regarding the East and West gates that was not accurate in the current POA and County GIS system. CCI provided us legal descriptions, deeds and other useful information contained in this report. CCI had already analyzed all the properties and was in the process of quit claim deeding certain properties to the POA but put that on hold awaiting the committee's completed analysis and input so all actions could be done at once. The committee discussed the expected process and associated costs of quit claim deeds and surveys. Our understanding and recommended approach would be that the entity benefiting from the action (in this case the POA) should bear the costs associated with deeding the land to the POA and in the case of the POA purchasing a property then those costs would be shared.

The committee discussed with Kevin Sexton, Charlie Brown, and the GM the insights they have regarding the CCI properties which we included in our analysis. We also discussed future requirements like new water tanks and recreation area expansion. The staff did not identify any needs associated with new water tanks and the GM and POA Staff had already identified existing POA common property and land we could use for future recreation areas. The committee was able to garner gratis support from (Hot Springs Title Company) to do further research into the deeds and legal descriptions of the land to complete our work.

The committee used the expertise within the committee to do further research on survey work, real estate assessments and engagement with county and Arkansas organizations related to this task.

INSIGHTS

Sale of Reserve Property: The current Declarations states that the developer (CCI) has sole right to determine, when selling a reserve property, whether the property will be part of HSV and subject to the governing document of the POA or not. Stated current policy of CCI is: The only time CCI allows a parcel not to be brought under the Declaration is when there is access from a public roadway not within HSV. If there is public road access from outside HSV, CCI has historically maintained a 10 ft buffer zone surrounding the tract to prevent access to the Village. Additionally, CCI has historically retained a 10 ft buffer zone all around HSV. Cedar Creek (P101) and abutting parcels in the Cedar Creek Trail area could be sold under these circumstances since this reserve property can be accessed from Danville Road. Danville would be there only access to this property and CCI would establish a 10 ft buffer around the parcel retained by CCI which would prohibit access to HSV. It is of the opinion of the committee that the POA Board should consider negotiating an agreement with CCI specific to this clause that gives the POA an opportunity in writing to consider the decision and potentially have the first right to come to an agreement on the decision to maintain the integrity of HSV.

Land Lock Properties: There are 5 privately owned properties just outside HSV on the north side that are owned by 5 different families. Arkansas law requires HSV to allow access to their land. Therefore, the POA provides to those owners a land locked gate access card. These families are allowed through our gates to their property using our roads per the law. We currently have 53 land lock card holders. These owners have gained rights through CCI to cross the easement that surrounds HSV to access their land.

Easement Access for HSV property owners to property they own just outside HSV: There are multiple HSV property owners who own property on the border of HSV and have gained rights, from CCI, to cross

the easement from their property in HSV to their property they own just outside HSV. They are allowed to build roads but must put up a gate. The agreement is between CCI and the property owner with the POA enforcing the agreement through the compliance department.

These insights show the complexity of land sales in and around HSV and the role that CCI plays, and Arkansas law plays in the management and oversight of the rights given to these property owners.

LEGAL:

The committee believes there are some legal questions that the POA Board should have the Rose Law Firm research and provide the appropriate legal opinion for the record. This is primarily focused on easements, dedications, prescriptive right away law within Arkansas, water rights and first right of refusal for the sale of Cedar Creek property (P100, P101).

The statutory period for accruing rights-of-way by prescription in Arkansas is 7 years continuous use (AR Code 18-61-101 & 18-11-106). Use of the lands of another for the statutory period along with other conditions ripens into an absolute right and creates a cloud on the title to the property owner. Many of the properties evaluated have roads, water and sewer pipelines, pump stations, access roads, improved walking trails and other amenities. It appears that in many cases we do not need to own the land but only need to protect the infrastructure that is in place in perpetuity. It is very probable that these features are encumbered by prescriptive rights we have accrued. When CCI sells these properties, it is necessary that notice of the existence of these prescriptive rights be made apparent to prospective buyers. A properly done title boundary survey should disclose this probability if evidence of an encumbrance is clearly visible on the premises. Underground pipelines are not clearly visible and notice to the buyer may not occur since no recorded documents of easements exist. Simply conveying these encumbrances by recorded easements would remove the cloud on the title and proper notice would be provided to all parties now and in the future.

It is the opinion of the committee that the Board should consider getting a legal review of this perspective on easements (especially for the infrastructure under the ground) and prescription. Then based on this legal opinion determine how best to engage with the County and CCI to ensure infrastructure under the ground is protected.

In our discussion with CCI they agreed to dedicate the road from Ponce De Leon Dr to the Cedar Creek Wastewater Treatment Plant. It is the opinion of the committee that a legal opinion on gaining rights by way of a dedication be analyzed by the firm on behalf of the POA.

The committee has concerns about water impacts to Lake Balboa should the Cedar Creek property (P100, P101) upstream from Lake Balboa be sold to a private entity. Therefore, the committee believes it necessary for Rose Law Firm to provide an opinion on the risks to water rights and flow of water from Lake Coronado through Cedar Creek to Lake Balboa. It is recommended that the Board have a clear understanding of the risks that could occur if the cedar creek property (P100, P101) is sold to a private entity and is allowed to not be part of HSV by CCI.

As the committee looked at options regarding Cedar Creek it was identified that a legal review would be prudent should the Board pursue purchasing the Cedar Creek properties (P100, P101) as infrastructure and designation status within the POA.

Finally, it is of the opinion of the committee that the Board should engage with Rose Law Firm to draft a first right of refusal letter agreement with CCI specific to the sale of Cedar Creek (P100, P101) which encompass the Sanitation and Streets Department and Cedar Creek Trail. This letter should consider timelines for response and decision making by the POA Board.

POA GIS & MARKINGS

Furthermore, a prudent endeavor for our POA staff would be to locate and mark with visible signs any buried infrastructure and at a sight-distance interval along buried pipelines on all reserve properties. Additionally, much of our infrastructure is not located in our GIS system and this needs to be updated.

ANALYSIS & RECOMMENDATIONS:

Of the 52 properties identified by CCI it was determined by the Ad Hoc Land Evaluation Committee that 40 had no equity to the POA and if sold by CCI would contribute the continued success of HSV (with the caveat above regarding rights to not be part of HSV that may be granted by CCI. This meant there was no critical infrastructure on the properties except for water and sewer lines that may run along the edge of the properties (see note above regarding legal review). The properties were not seen to be of value now or in the future to the POA but could be to a private investor for either commercial or residential development. There are also 12 boundary tracts that CCI does not identify with a number but are meant to provide a buffer to HSV. Between what is for sale and boundary tracts there were 13 properties of importance to the POA either because of existing infrastructure or amenities. Two properties (P100 and P101) are important properties to HSV and will require POA Board direct engagement with CCI Board at a later date (see Strategy section in this report).

Additionally, in our research we uncovered several errors in recording of POA owned land or CCI owned land that are clarified below, especially related to the West and East Gates and two of the water tanks.

The outcome of the research, analysis and discussions are as follows:

Before addressing the 13 properties in question there was some good news specific to the West Gate, East Gate and Danville Gate.

West Gate - - has already been deeded to the POA in 1971 and needs to be updated in the POA GIS system. The Garland County GIS correctly shows the deed. See attachment 2 - Deed info and plat.

East Gate - During our conversations with CCI it was revealed there was land at the East gate along Desoto and the signs at the East Gate that were still CCI property (Boundary Tracts 1-3). It is the understanding of the committee that CCI will quit claim deed the land along DeSoto road from the East Gate to Hwy 5 and the land where the entrance signs are for HSV to the POA. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action. See attachment 3 – East Gate plat information.

Danville Gate - It was discovered in our research that the Danville Gate is currently on CCI boundary tract property. The CCI property (boundary tract) runs along Danville Road and is meant to be a buffer HSV from Danville Road. In our discussions with CCI several approaches were discussed. CCI then presented an option to survey the land and quit claim deed the gate

portion to the POA. The CCI property is the boundary tract that is approximately 15.74 acres and is parcel # 500-00152-000 in Saline County. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action. See attachment 4 for overview and recommended division of this parcel from CCI.

Regarding the 13 properties (5 water tanks: P2, P5, P11, P29, P30, Lake Lago P80, Coronado Golf Cart Parking Lot P3, DeSoto Golf Cart Path P110, Road Access to Cedar Creek WWTP P90, Cedar Creek WWTP Buffer / Expansion Zone and Beaver Dam Trail P87, Sanitation and Streets Department Expansion Zone P100, Multipurpose Trail P109, Balboa Dam Maintenance Access and Irrigation System for Magellan and Isabella Golf Courses P54), identified by the committee as “**needed**” by the POA. The following is our understanding of actions that can be pursued with CCI:

Water Tanks - It is the understanding of the committee that CCI will quit claim deed the following (5) water tanks to the POA (see attachment 5):

1. Water Tank (A1 in POA GIS system) identified as parcel P2 by CCI and located on Viajero Drive on a 1.749-acre parcel labelled “Reserve Property” on the plat of record for Siega Subdivision, Block 3, being Parcel # 740-00121-000 of the Assessor’s Office of Saline County. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action.
2. Water Tank (B1 in POA GIS system) identified as parcel P5 by CCI and located on Carmona Drive on a 0.74-acre parcel labelled “Reserve Property” on the plat of record for Catalonia Subdivision, Block 1, having Parcel # 67963 in the Assessor’s Office of Garland County. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action.
3. Water Tank (IX in POA GIS system) identified as parcel P11 by CCI and located on Peral Way on a 0.189-acre parcel labelled “Reserve Property” on the plat of record for Peral Subdivision, Block 1, having Parcel # 64932 in the Assessor’s Office of Garland County. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action.
4. Water Tank (H1 in POA GIS system) identified as parcel P29 by CCI and located on Montanosa Circle on a 0.8474-acre parcel labelled “Reserve Property No. 2, Water System Standpipe Proposed” on the plat of record for Velazquez Subdivision being Parcel # 756-00122-000 of the Assessor’s Office of Saline County. An error is found between CCI and the county - according to Assessor’s records this parcel is currently assessed to the HSV POA. CCI is working with the title company to obtain the deed to clear up this discrepancy. This parcel is surrounded on three sides by a 4.3485-acre parcel labelled Reserved Property No. 1 as indicated on said plat of record, which is Parcel # 756- 00122-000 of the Assessor’s Office and the POA GIS system indicates a pipeline across a corner of this parcel. It is the intent for CCI to divide up this property, deeding the water tank and access road to the POA and retain the rest of the property. The POA will be responsible for all survey and recording fees. Recommend the POA Board direct the POA staff to sort out the discrepancy regarding the ownership with the County by requesting the deed and then authorize this action based on those findings.

5. Water Tank (E1 in POA GIS system) identified as parcel P30 by CCI and located on Barcelona Way on a 0.5838-acre parcel labelled "Reserve Property" on the plat of record for Ciudad Subdivision, Block 3, having Parcel # 73399 of the Assessor's Office of Garland County. An error is found between CCI, and the county Assessor's records show this parcel is assessed to the HSV POA by virtue of a deed from CCI dated 10/25/1982 of record in Deed Book 1002, page 738, Garland County Land Records indicates that the deed type was "easement". (This actual instrument could not be found online.) CCI is working with the title company to get the actual deed and clear up the discrepancy. Recommend the POA Board direct the POA staff to sort out the discrepancy regarding the ownership with CCI and the County by reviewing the deed and then authorize this action based on those findings. The POA will be responsible for all survey and recording fees.

Lake Lago - is the water source for HSV. There is a CCI property (P80) that includes part of the spillway to Lago Lake and is within the 300-foot buffer zone established around the Lake to protect our water source. It is our understanding that CCI is willing to quit claim deed this property (P80); located at Gerante Way down to the Lago Lake spillway, a parcel of 10.7 acres and is parcel # 572-00093-000 in Saline County. It is in Gerante subdivision of HSV and is part of "The Mountain" neighborhood. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action. See attachment 6 – Lago Lake protection.

Coronado Golf Cart Trailer Parking Lot - was identified in our research as sitting on CCI property. According to our research there is no existing POA property in which we could relocate the parking lot. Additionally, it was noted that this parking lot can be overcrowded during tournaments. In discussions with CCI they were willing to sell the property to the POA for a reasonable price which at the time of our discussion was agreed to be \$5000.00. The property is identified as P3 by CCI, is approximately 1.3 acres and is parcel # 776-00107-000 in Saline County. It is in Zaragoza Subdivision and in Coronado Neighborhood. It is the recommendation of the committee that this parcel be purchased which will secure the golf trailer parking lot and provide for future expansion of the parking lot. The cost of this purchase can be offset by one sale of a POA owned lot. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action. See attachment 7.

DeSoto Golf Cart Path - In our research it is likely that the golf cart path at DeSoto goes into CCI property (P110) which is parcel #84380 of Garland County located off Emmanuel Place. This parcel is approximately 1.06 acres. In our discussions with CCI they are willing to quit claim deed this property. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action. See attachment 8.

Road Access to Cedar Creek Wastewater Treatment Plant (WWTP) - The next property identified as having POA equities was CCI identified P90 which is located at the intersection of Ponce and Cloaca. This is parcel #94921 in Garland County. This property is approximately 18 acres and encompasses the road that leads to the Cedar Creek WWTP, Beaver Dam Trail, Animal Shelter, and Balboa storage below the dam. In discussions with CCI they indicated they would dedicate the road to the POA so access to and from these important sites is assured. Recommend the POA work

with CCI to get this dedication by way of conveyance completed and recorded for the road leading off Ponce De Leon Drive to the Cedar Creek Wastewater Treatment Plant and the road to the storage area. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action. See attachment 9.

Cedar Creek WWTP & Beaver Dam Trail - In the same area mentioned above, the Cedar Creek WWTP needs a 300-foot setback for expansion and liability issues. Furthermore, Beaver Dam Trail is a POA resource which would be beneficial for the POA to own. The CCI property in question is P87 which is approximately 27 acres lying east of and abutting the WWTP, encompasses the trail and creek from Lake Balboa. This property is made up of 6 contiguous tax parcels # (95160, 91679, 90286, 491, 488, 87609) in Garland County. Located on this property is the Magellan Beaver Dam Trail, a very significant amenity with wetland aesthetics, a pump station for golf course irrigation, a major force main sewer line and other underground infrastructure. It is the committees understanding that CCI is willing to convey via quit claim deed the property to the POA. Recommend the POA engage with CCI to take this action which will ensure required setback, expansion of the WWTP and preservation of the Beaver Dam Trail. The legal description should be sufficient for the action, but a survey may be required due to the multiple parcel nature of this tract and the fact that this property will create a significant part of the south boundary between HSV and adverse properties. Therefore, it may be necessary for the Board to approve a full survey to legally describe the boundaries. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action. See attachment 10.

Sanitation & Street Department Site – This is located just below the Coronado Dam just off Minorca Road. The CCI number is P100 and is recorded as Parcel ID 500-00152-000 in Saline County. The Sanitation and Streets Department has indicated they need more land and have already encroached onto CCI property. CCI is willing to adjust the property boundaries to provide the Sanitation and Streets Department the land they need. This would entail several steps with decision points along the way. First the POA would pay for a survey of the new boundaries for the Sanitation and Streets department. Next the POA would negotiate with CCI on a reasonable price for the additional land and/or for the entire parcel. Then the option to either purchase just the additional land for the Sanitation and Streets Department or purchase of the entire parcel could be presented to the Board for decision. Purchasing the entire parcel would secure the trail head for Cedar Creek. The recommendation of the committee is to pay for the survey to adjust the lines and then purchase the additional land required for the Sanitation and Streets Department. Purchasing the entire parcel should be considered in relation to the Cedar Creek Trail discussion later in the report. See attachment 11.

Multipurpose Trail - The multipurpose trail that runs along DeSoto golf course off Emanuel Circle was identified to be on CCI property identified as P109 which is approximately 9.99 acres. This is parcel # 84380 in Garland County. In discussions with CCI they will quit claim deed the property to the POA as they do not have access to the property due to its location. The POA will be responsible for all survey and recording fees. The recommendation from the committee is to approve this action. See attachment 12.

Balboa Dam Maintenance Access and Irrigation System for Magellan and Isabella Golf Courses - The property just below Balboa Dam between the golf course maintenance facility and Arista

Courts Subdivision is a CCI property identified as P54. This is also known as Garland County property ID 93262 and 114465. Crossing this parcel is a cleared right-of-way for an existing power transmission line. From Ponce de Leon Drive, a gravel road leads to Balboa Trail Parking Lot B. The unimproved road continues to a locked gate at the boundary with existing POA property. This road is used for access to the Balboa Lake Levee for maintenance (dam health) and mowing. It is also a part of the Balboa Trail. Another part of Balboa Trail leaves the aforesaid road and is blocked with large stones and restricted to foot traffic or carts. This reach of the trail runs northwesterly along or over a buried pipeline that is supplied by a pumping system on POA property that pumps water from Balboa Lake across Ponce de Leon Drive to supply the irrigation system at Magellan Golf Course and other east village golf courses. In the notes section of the plat at Attachment 17 there are provisions for utility and drainage easement as described in Article IV of the Declarations. CCI is willing to grant an easement for this vital infrastructure. CCI has a potential buyer and the POA would want to get this easement established before the sale of this land. It is of the opinion of the committee that the POA pursue obtaining a specific easement for the maintenance road and for the pump station and associated pipe for the golf course irrigation. The POA will be responsible for all survey and recording fees. Recommend the POA Board authorize this action. See attachment 13.

Trails: The remaining properties are associated with other trails in HSV.

DeSoto Walking Trail - The walking trail along DeSoto Blvd at the intersection of DeSoto and Carmona goes through CCI property identification P14 which is approximately 9.9 acres. It is parcel ID 88960 in Garland County. In our analysis the trail could be re-routed to stay out of this property and within existing POA property and the DeSoto Blvd easement. Recommendation from the committee is to take no action with this property and should it sell then engage with the new owner to see if they would grant an easement or further divide up the land to put the trail in POA ownership. See attachment 14.

Waypoint Trail - is currently located on CCI property identified as P45 which is located just behind El Jimador restaurant. It is Garland County parcel ID 91474. There is no way to re-route the trail and currently part of the trail is already on private property with Los Lagos II Owners Association. It is the assessment of the committee that no action be taken on this property. The input from the trails committee and this committee is we take this at risk. Should it sell, we could engage the new owner about maintaining the trail. Consideration regarding liabilities would need to be addressed in those discussions. If that agreement was not formed the trail would end at the Lagos property. See attachment 15.

Hernando Trail - at DeSoto and Ponce is also postulated to be on CCI property identified at P91 and is approximately 2.26 acres. This is Saline County parcel ID 472-00140-000. The trail runs along the property border along DeSoto Blvd. The property to the north is similar and CCI points out that for the property to the north when it was surveyed the trail was not within the property boundary. It is therefore the assessment and recommendation from the committee that no action be taken regarding this property as it is likely the trail is not actually on the CCI property and if needed could be moved slightly to put in in the DeSoto Blvd easement area. See attachment 16.

Cedar Creek Trail - The final trail is the Cedar Creek Trail of which over 90% is on CCI property identified as P100 which is approximately 22.89 acres and is Saline County parcel ID 001-14238-000. Plus, P101

which is approximately 54 acres and is Saline County parcel ID 001-14257-000 and 736-00197-000. The total of both parcels is approximately 76 acres.

What is at stake for HSV regarding this property.

1. Cedar Creek Trail which the Trails Committee has developed a significant amount of data on the value of the trail to the community and natural plants and wildlife. The Cedar Creek Trail system is the #1 most used trail system in Hot Springs Village and for good reason it hosts over 100 species of wildflowers, the most of any trail in the Village. It is home to Barred Owls which can be heard in late afternoon. It currently has 30 dedication benches that were placed in memory of loved ones and contains old growth hardwood forest provides cool shade on hot summer days. The trail is flat and wide providing a non-strenuous, safe walking surface that is centrally located in the Village. Over 100 species of wildflower's, ferns and flowering bushes exist along the Cedar Creek Trail. There are 4 plant species that is considered a sensitive species and tracked by the *Arkansas Natural Heritage Commission* or has been designated as Vulnerable in the state of Arkansas and at some risk of extirpation due to limited populations or limited range in the state.
2. Cedar Creek is one of the primary water sources for Lake Balboa. Water runs from Lake Coronado to Lake Balboa through this reserve property. Concerns about that water source and the quality of that water could be put at risk should the property be purchased by an individual and that individual want to for example dam the creek to create a pond. Therefore, there may be water rights issues that need to be fully understood with this land. Based on this observation, it is the opinion of the committee that the Board immediately ask Rose Law Firm for a legal opinion on water rights and potential impact to all the residents that live on Lake Balboa.
3. The trail and creek are primarily in the FEMA floodway and as a result this part of the parcel is prohibited from building on.

CCI was engaged on this property, and it is their opinion that this property has value and intend to try and sell it in 3 big sections. It is CCI belief that Cedar Creek is a major selling point to the land and therefore does not want to divide up the property to separate out the Cedar Creek trail. CCI is reaching out to a National Land agent to do a market analysis of the property, in which they will share the market value with the POA. Currently CCI is asking \$500,000 for this property. It may be less than this when we get the market analysis. CCI does plan to list this property with a national land sales agency which does put at risk that the property be sold to a land speculator.

We have engaged CCI to understand options that the POA could take regarding this property.

1. CCI is willing to give the POA the first right of refusal for purchase of the land. The Committee sees this as a good option, but the Board would need to draft up a legal document to put this in place and would need to have thought through exactly what action they would take in advance should this have to be executed. The previous situation where this happened the POA had only 72 hours to respond, and that did not allow enough time for the Board to deliberate and respond. It will be important for the Board to have discussed and agreed to actions they are willing to take prior to establishing this first right of refusal and put in the agreement timelines that the Board feels they would need to make a decision.

2. CCI would be willing to finance the purchase of the land for a 5-year period at 0% interest to the POA if purchased at market value. The committee believes this to be a great option for the Board and property owners and cost could be further deferred through a donation drive should that be an option the Board wishes to pursue.

These insights were considered in our proposed options for the POA Board to consider.

After debate and deliberations, it is the recommendation of the committee to withhold any action regarding Cedar Creek Trail with CCI until they get the market analysis done and a value for the property established. The committee has used our realtor resources and believes given recent sales of properties around the village the value of the property will be below the current asking price by CCI of \$500k. The market analysis will provide a more solid number to inform the Boards discussion.

It is the recommendation of the Committee that the POA get in writing a first right of refusal so that if a buyer were to approach CCI the POA would have a decision point. This is not a full proof solution as our recent experience with just such a first right of refusal did not provide the POA Board the time needed to make a decision. Therefore, in developing the first right of refusal the Board will need to have already discussed and have a plan of action should this occur. The Board will not be able to start the discussion and decision-making process when a buyer is brought to the attention of the board through the first right of refusal agreement. Instead, this is a decision point that the Board has already debated and decided on a course or action that you hold in abeyance until required to act.

The Board should also ask Rose Law Firm to provide a legal opinion on the water rights surrounding cedar creek. Since this water flows into the headwaters of Lake Balboa there are potential major impacts to all the residents of Lake Balboa. Therefore, a full review of all laws and regulations surrounding upstream water rights need to be fully understood by the Board. The Committee believes this information to be critical in any decision the Board must consider.

Depending on the legal opinion on water rights and regulations it may be an option to pursue an easement for the creek to avoid any water rights issues and impact to Lake Balboa.

Furthermore, we believe it would be in the best interest of the village to survey the property owners to determine the consensus regarding the POA purchasing the land to preserve the trail and then break up the rest of the land into buildable parcels to offer to builders in the village. Before a survey there would need to be an information campaign to inform the property owners of what is at stake and all the complexity surrounding this land to include loss of the land to HSV entirely.

In the meantime, focus on completing all the transitions with CCI mentioned in the other recommendations. This will give the Trails Committee time to engage with outside entities such as the Arkansas Nature Conservancy, Audubon Society, and local entities like the local banks and realtors to garner support both financially and in developing options that could be presented to CCI at a later date. Another question that could be asked of the Rose Law Firm is whether under Arkansas law CCI could get a tax write off for donating the land to a nature conservancy area or other similar tax benefits based on CCI donating part or all the property to a natural area under Arkansas law. These options will take time to develop and will require an engagement by the POA Board to the CCI CEO and Board for consideration. Risk is assessed as low to the loss of Cedar Creek Trail and should it sell the POA could engage with the new owner with a proposal to get an easement or purchase just the trail portion of the

property to reduce the tax burden to that new owner. However, with CCI now looking to advertise it with a national company the chances of it being sold to a land speculator or REIT company has grown the risk. It is still the opinion of the committee to take the risk and see strategy section below for options on how to proceed. See attachment 17.

ESTAMATED COST:

Regarding the cost of these actions the committee does not have detailed information. However, here are some planning factors for the Board to consider.

It is important to note this should be considered cost of doing business in securing the infrastructure of HSV.

Regarding recording fees and quit claim deed fees for both Saline and Garland Counties charges a \$15 recording fee and \$5 for every page subsequent to the first. The tax rate on real estate transfers in Arkansas is \$3.30 per \$1,000 according to their website.

To get an understanding of approximate survey fees the committee reached out to B&F Engineering. We discussed with them what they thought about the required survey work. They have been the sole survey team for CCI respective to HSV. They believe a survey will be required if a plat is not already established. The Committee used the expertise within the committee to provide a general idea of survey costs, but it is important to note that until the job and scope is discussed with B&F Engineering these numbers are just to give the Board a general idea of potential costs. The estimates are for the East Gate little to no cost, Danville Gate \$2000, Water tanks no survey required, Lake Lago \$3000, DeSoto Cart Path \$2500, Cloaca Lane \$2500, WWTP \$4500, Sanitation Department \$2500, Balboa Dam Easement \$1500, and Multipurpose Trail \$1500. Total survey cost should not exceed \$20,000. These are just estimates, once the deed search is completed and legal descriptions reviewed then actual costs can be determined working with B&F Engineering and CCI.

STRATEGY:

The committee recommends the following strategy in executing these recommendations.

1. Pursue immediately all actions to quit claim deed the identified properties to the POA. This will require an assessment by CCI point of contract and the POA staff if the legal description is sufficient to quit claim the property, or a survey is required. If a survey is required, we recommend using B&F engineering Company who does all the work for CCI. This will expedite the process. The GM and staff need to have the Board permission to spend the money to make the necessary surveys and recordings.
2. The Board should also authorize the purchase of Coronado Golf Course Trailer Parking Lot (P3). Given this permission the property can be deeded with the rest of the properties saving time and effort.
3. As this work is being conducted authorize the required expenditure of resources (survey and recording fees) to dedicate the road leading to the Cedar Creek WWTP. This is a critical artery for the POA. Note the committees comment about legal opinion on dedication of roads.
4. Furthermore, direct the POA staff to negotiate an easement at CCI property P54 for the maintenance of Balboa Dam and for the pump house and associated pipes that provide water

for irrigation of Magellan golf courses and further supplies water to east side golf courses (Isabella, Ponce, and Granada).

5. Then task the POA GM and staff from the Sanitation and Streets department to assess the land requirements at P100. Then based on this assessment authorize the survey work to identify the new boundary lines. Authorize the POA staff to negotiate with CCI a price for the additional land out of P100 to meet our department's needs. Then approve the purchase of this additional land with the following consideration: negotiations should have an option for just the additional land or to purchase all P100 which encompasses the trail head for Cedar Creek trail.
6. Next would be to establish a reoccurring touch point with the POA staff to provide the POA Board and community progress in working with Garland and Saline Counties to update the records to properly reflect both in their GIS system and the POA GIS system the correct ownership. The importance of this work is associated with taxes, encroachment, and responsibilities associated with property in HSV.
7. As this work is ongoing the committee recommends the POA Board engage with Rose Law Firm to answer the questions posed by the committee. Armed with this information the Board can address any concerns related to POA infrastructure not identified by this committee and/or the POA staff that may be disputed in the future.
8. Finally, the committee recommends the POA Board focus on the above items first and complete them before considering the next part of this strategy.

Cedar Creek trail is a prized trail within the community. The trail exists primarily in the FEMA floodway meaning no one can build in this area. CCI believes the creek is a selling point for any potential buyer. CCI is not willing to divide up these parcels at this time. The cost of purchasing the land is significant by the POA, however in working with CCI we have identified a few things that will further inform the Board as to the viability of the options below.

1. CCI is bringing in Whitetail Properties which is a national land agent with a large presence in central Arkansas. They will do a market analysis to provide CCI an actual value of the land which CCI is willing to share with the POA. It will be incumbent on the POA staff to stay engaged with CCI to get this information from CCI and to the POA Board.
2. CCI is willing to enter into an agreement to provide the POA a first right of refusal on a purchase of the land if and when CCI gets an offer on the land. Therefore, it is important for Rose Law Firm to draw up legal paper concerning the first right of refusal on this property and get it established quickly.
3. CCI would be willing to finance for a 5-year period at 0% interest to the POA assuming the POA purchased the land at market value. The committee believes this to be a great option for the Board and property owners and cost could be further deferred through a donation drive should that be an option the Board wishes to pursue.

The POA Board must also consider one other key point of discussion with CCI. Recent sales by CCI have brought to the forefront a practice protected in the Declarations for CCI to sell reserve property and then gives CCI the right to negotiate with the buyer to not be in HSV if they can access the land from outside HSV without using our infrastructure. The concern here is associated with the same property that Cedar Creek is on P101 which could be accessed from Danville Road and could be granted the right to not be in HSV. Therefore, it is of the opinion of the committee that the Board use the first right of

refusal agreement with CCI to also open the discussion as to whether CCI is considering giving the prospective buyer the right to not be part of HSV.

It is the assessment of the committee that after all the actions above have closed out the POA Board could request an audience with the CCI CEO or CCI Board to discuss potential options to secure access to Cedar Creek Trail.

While all these actions are taking place it is the recommendation of the committee to conduct a survey of the community as to their position on purchasing the Cedar Creek Trail land. This would first need to include an education campaign as to what is at stake, what is involved and why it matters to the property owners. A point counter point method of education could be a good way to create the education information. The information should be more than just about the trail but also include any information regarding water rights and the potential for the property to be given the right by CCI to not be part of HSV. Then armed with the survey results the Board can consider the various options you may wish to take. In the spring, if the Board believe a vote is required for some reason, it could be incorporated into the already regularly scheduled Board member vote.

If there is a positive response to the survey, and the Board wished to pursue a purchase option then a donation effort could be organized to defer the cost of the purchase at the new market value. Donations could come from property owners, banks, realtors, and other businesses.

OPTIONS FOR CEDAR CREEK TRAIL AND INFRASTRUCTURE:

Based on the legal opinion regarding water rights, request an easement of the Cedar Creek to protect water rights and water flow into Lake Balboa. This action could also include the trail.

Purchase the property based on positive response from survey and then divide up the land to that which supports the trail and floodway zone between Lake Coronado and Lake Balboa and that land which could then be sold to a developer to build out houses in those areas.

Purchase of the floodway, if CCI could be convinced to divide up the land parcel. The committee believe the Trails Committee has developed some useful information that strengths the argument for CCI to divide up the property which would then open the door to potential viable options.

Depending on Rose Law Firm findings CCI may be able to donate the land as a nature area and get a tax write off.

Naming of the trail after CCI. CCI already has a trail in their name, but this is just one of several incentives that the Trails Committee has considered.

Engage the local community banks and realtors to see if they would be willing to donate funds towards the cause of protecting this nature area. This could be combined with a general donation drive and the POA just paying the difference in the purchase price.

The option to have a special assessment was discussed and researched and the use of a special assessment was deemed not in the spirit and intent of the Declaration and therefore not an option for the Board. However, should the Board wish to pursue this further it is recommended that Rose Law Firm provide a legal opinion as to the use of this clause for the purchase of this property.

Under Article X, Section 4. Special Assessment for Capital Improvements with the Vote of Members it states:

Section 4. Special Assessments for Capital Improvements with Vote of Members. In addition to the annual assessments authorized by Section 3 hereof, the Association may request and levy a special assessment limited in time and specifically for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of the water system, the sewer system, and the ways of access for vehicles and roads and streets within The Properties, even though the roads and streets may have been dedicated to the public, and also other capital improvements upon or additions to the Common Properties, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of 51% of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at least thirty (30) days in advance and shall set forth the purpose of the meeting, duration of the special assessment, and the specifics of the project. Amended effective August 1, 2013.

Overall Recommendations

It is the recommendation of the committee that the following actions be taken as soon as possible by the POA Board and GM:

10. Contact CCI to formally request the following properties be quit claim deeded to the POA and authorize payment for any survey and recording fees:
 - 5 Water Tanks - (P2, P5, P11, part of P29, P30)
 - Danville Gate – Conduct a survey and quit claim deed just the gate from the boundary parcel
 - Lake Lago – P80
 - DeSoto Golf Cart Path – P110
 - Cedar Creek Wastewater Treatment Plant/Beaver Dam Trail – P87
 - Multipurpose Trail – P109
11. Purchase Coronado Golf Cart Trailer Parking Lot reserve property at P3 for \$5000.00 plus any survey (if needed) and recording fees.
12. Work with CCI to “Dedicate” or otherwise convey the road leading off Ponce de Leon Drive, shown on some maps as Cloaca Lane, together with co-located infrastructure for access to the Cedar Creek WWTP, Beaver Dam Trail and the private property storage area that goes through reserve property P90. Authorize payment for any survey and recording fees.
13. Direct the GM/POA staff to work with CCI to establish easement language in the Deed for reserve property P54. The easement should account for: 1) the maintenance access/road to Balboa Dam/levee. 2) The golf course irrigation system which includes the pump house and pipelines running from Balboa Dam to Magellan Golf Courses (providing irrigation water for Magellan, Isabella, Granada, and Ponce golf courses). Authorize payment for survey and recording costs.
14. Authorize payment for the recording costs and survey costs as needed for the all the identified reserve and boundary properties recommended in this report. Recommend you use B&F Engineering Company to do all survey work. They have done all the survey work for Cooper and have the historical records and knowledge to accomplish this task in the most cost effective and expeditious manner. B&F Engineering Company, 928 Airport Road, Hot Springs, AR 71913, (Phone) 501-767-2366, (Email) info@bnfeng.com.
15. Authorize payment to survey reserve property P100 to meet Sanitation / Street Department requirements. The Sanitation team will need to identify their specific needs to the surveyor. Then, negotiate with CCI for a reasonable purchase price for this land. The committee recommends purchasing the additional land given a reasonable price can be negotiated and it is acceptable to the Board.
16. Direct GM/Staff to work with CCI in contacting Saline County to update the county GIS website regarding the East Gate.
17. Direct Staff to update the HSV POA GIS. Consider marking underground water and sewer lines that run on CCI reserve property.
18. Task the Rose Law Firm to provide legal opinion on:
 - a. Easement rights for water and sewer lines that are not currently documented in

- deeds and how this gets conveyed during a current sale of reserve property
- b. Rights-of-way by prescription for existing infrastructure and trails on reserve property.
 - c. Rights gained by having a road dedication to the POA.
 - d. With respect to the Cedar Creek property owned by CCI (P100, P101) provide a legal analysis on water rights and issues regarding the flow of water and quality of water from Lake Coronado to Lake Balboa via cedar creek. The opinion should address Arkansas rights under the law should the creek be sold to a private entity and CCI grant them the right to not be part of HSV.
 - e. Purchasing the Cedar Creek properties (P100, P101) as infrastructure and designation status within the POA.
 - f. Ask the Rose Law firm to draft up a first right of refusal agreement with CCI for P101 (Cedar Creek Trail Property). Ensure the agreement provides the POA Board time and decision-making space should this clause be executed.