



NEWSLETTER

October / November 2002

EXECUTIVE BOARD MEETING

The next Executive Board and will be held on Wednesday November 6th @ 4:45pm in the 3rd floor Conference Room at Az State Land. Additional information can be obtained on the Chapter website.

→ NOVEMBER CHAPTER LUNCHEON ←

DATE: Tuesday, November 12th @ 11:30 am

PLACE: Treulich's Steakhouse (5020 N Black Canyon Freeway) [There is a map on the website for directions]

COST: \$14.00 for members and guests

MENU: Baked Alaskan Snapper or Boneless Breast of Chicken Marcella or Bacon Wrapped Chopped Filet with Mushroom Sauce.

All entrees will be served with Tossed Salad, Dinner Rolls with Butter, Garlic Whipped Potatoes, Chef's Vegetables du Jour, Tea or Coffee, and Spumoni for dessert.

GUEST SPEAKER: Carol Gill Griffith, Deputy State Historic Preservation Officer for Arizona

RSVP: Deadline for reservations is 3:00 pm, Friday, November 8, 200. Please RSVP through the Chapter website at www.irwaaz.com or call Pam Hicks @ 602.236.5948.

Thought for the Day

An optimist is a person who sees a green light everywhere, while the pessimist sees only the red stoplight. The truly wise person is colorblind.

NOVEMBER GUEST SPEAKER

Melita Hillman, SR/WA, President Elect

Join us at the November 12th luncheon to hear Carol Gill Griffith, the Deputy State Historic Preservation Officer for Arizona. Ms Griffith has been Deputy State Historic Preservation Officer since 1993 having served as a Staff Archeologist with the Office of Cultural Resource Management at the ASU Department of Archeology as well as administering historic preservation grants at Arizona State Parks.

A resident of Arizona since 1962, she received her undergraduate degree from the University of Arizona and her Masters in Anthropology from ASU, as well as completing architecture and preservation courses through a University of Oregon study program in Italy.

The State Historic Preservation Office is responsible for administration of the Arizona and National Register of Historic Places, the state's Certified Local Government Program and various programs to survey, inventory, plan and preserve sites in Arizona as well as provide assistance to other agencies and the public. One of the assistance areas includes review of Cultural Resource Studies submitted for purchase of property through the State Land Department.

2003 CHAPTER OFFICERS HAVE BEEN ELECTED

The Election of the 2003 Chapter Officers was held on Thursday, September 19th at the Seminar Luncheon. The following people were elected to serve the Chapter for 2003:

- **President & 2 Yr International Director**
Melita Hillman, SR/WA
- **President Elect**
Douglas McLaughlin, SR/WA
- **Secretary**
Chris Banks, SR/WA
- **Treasurer**
Michael Sterling
- **1 Yr International Director**
Gary Patchett, SR/WA

Professional Development Committee

- **Chair:** Toni Soderman, SR/WA
- **2 Yr Member:** Larry Ambrosier, SR/WA
- **3 Yr Member:** Al Dickie, SR/WA

EFFECTIVE September 1, 2002, Universal Field Services has relocated to new offices at:

- 3838 North Central Ave, Suite 1400, Phoenix AZ 85012
- New Phone Number: 602.604.8118
- New Fax Number: 602.604.9515
- Email Addresses remain unchanged

MEMBERSHIP

Rebekah Louis, Membership Chair

The following people were approved for membership at the October 4th Executive Board Meeting:

- Sheldon Pensinger, City of Phoenix
- Virginia Cota, City of Phoenix
- Janet Madaghiele, SRP
- Michelle Genereux, Qwest

The following people were read for 30 day consideration at the October 4th Executive Board Meeting:

- Craig Maasen, Universal Field Services
- Marco MacBeth, Universal Field Services
- Mona Cervantes, Universal Field Services
- Rodney Fehlman, Universal Field Services
- Doyle Hawkins, Universal Field Services

**DON'T FORGET TO VOTE IN NOVEMBER
EVERY VOTE COUNTS**

JOB BANK

For current job openings, please visit the Chapter website: www.irwaaz.com/jobbank_openings.

If you have a job opportunity you would like to advertise, please email the information to: info@irwaaz.com.

Thanks to all of you who were able to attend the Computer Seminar on October 4th. There was a lot of enthusiasm, laughter and great questions. Eric Dahl of Canyon Digital Solutions did an excellent job presenting what turned out to be too much information for one day. We all came away knowing more than we did when we got there. The food was excellent too!!!

Many thanks to everyone who pitched in to help set up, clean up and help out with the logistics (especially Dan Kovoichich and Perry Wiseman [our illustrious AV genius]). A big **THANK YOU** to the Executive Board for sponsoring this activity. It was a very generous gift back to the Chapter members and we all appreciate it very much.



Specialists in Right of Way Survey

High Tech * High Accuracy * High Speed

Field crews equipped with state of the art RTK GPS survey gear

High end CADD
Proprietary high speed data processing
1200 dpi 48 inch color plotters

Can-Am Engineering Geomatics Arizona offers 29 years of expertise in:

Professional Land Surveying
Land Planning and Subdivision Engineering
Utility Engineering and Project Management
Transportation and Traffic Engineering
Water Resources and Geology

Contact:

Dave Burden
Can-Am Engineering Geomatics Arizona
480-288-2271

LET'S WELCOME THE CHANGE OF SEASONS WITH A CHANGE OF CUISINE!

Pam Hicks, Luncheon Chair

Your IRWA Luncheon Coordinators would like to continue offering a variety of quality food and good value to the IRWA members. We will be meeting with the Holiday Inn Banquet Manager soon to discuss arrangements and prices for future luncheons in 2003.

We would appreciate your opinion of preferences so we can make decisions with your thoughts in mind, so please email me (Pam Hicks) at pjhicks@srpnet.com after the November luncheon with your comments. We want to consider alternating restaurants in the coming year. Thank you for all your suggestions for new places to visit, however most of them didn't qualify for keeping the price under \$15 as our website poll indicated or they couldn't accommodate us in some way or another.

Treulich's was suggested by Toni Soderman. I heartily agreed with her suggestion after tasting one of their lunch specials and discussing arrangements with their banquet manager. The food was delicious! The banquet room can easily accommodate our large group. Good location and easy freeway access. The price will remain at \$14.00.

Please let me reiterate the importance of making your luncheon reservation...and attendance. We are required to guarantee our guest count on the Friday before the luncheon so the chef and servers can prepare accordingly. Underestimating can result in an inadequate food supply or having to wait for more table settings to be made, which irritates the restaurant staff. Giving the exact count for reservations for our last luncheon resulted in 5 no-shows that the Chapter paid for. We request cancellations be made by the Friday before the luncheon. We understand emergencies may arise suddenly and you may have to cancel at the last minute. We ask for your cooperation and professional courtesy in making and canceling your reservations. **No shows may be asked to give a speech on the finer points of meeting etiquette at the next luncheon.** Suggestions on how to deal with this matter are greatly appreciated (public flogging isn't allowed ☺).

Thank you for your continued support.

GENERAL NEWS

Mark Keller, SR/WA, International Director, Region 1 Vice-Chair

It is hard to believe that fall is in full swing. This year's events have been well received by chapter members. Kachina Chapter 28's Annual Educational seminar was a tremendous success with over 110 participants for September 19 sessions and over 75 participants for the September 20 classes. Thanks to all the board members and seminar committee members for a great seminar. The combination of top-notch speakers and corporate sponsors once again resulted in a worthwhile event. Congratulations to Tierra Right of Way as Employer of the Year and Ron Hill, SR/WA as Special Services of the Year.

Our First Annual Computer Workshop was held on October 4, 2002 at Salt River Project. Mr. Eric Dahl of Canyon Digital Solutions and Cate Chamberlain from IRWA put together an excellent overview and practical demonstration of Microsoft office programs including Access, Excel, Word, and Outlook as well as a background on computers and reference guide. Hats off to Eric, Cate, and those who assisted in this event. Once again, Milt Rouse provided a tasty selection of Mexican Burros and fixings.

Upcoming events include the Fifth Annual Young Leadership Council Conference in San Diego, California on October 25 through 27, 2002. Please refer to the IRWA website at www.irwaonline.org for further details.

The Region One Fall Forum is fast approaching and will be held on November 8 and 9, 2002 in San Jose, California. This Forum is expected to be quite lively with topics ranging from a formation of a study committee for the possible realignment of Regions 1 and 9, Chapter Assistance Program, Region By-Laws creation, and general chapter reports and educational courses discussion. Please refer to the temporary web page for Region 1 at :

www.irwaaz.com/region1/.

Other recent developments include IRWA Headquarters seeking new personnel to fill the positions of Executive Vice-President, Marketing Director, and Educational Programs Director. All the international Committees are working on the 2003 IRWA conference in Kansas City, Missouri next June. IRWA has over 10,000 members and is continually forming new educational alliances. Please look for new updated IRWA courses, books, and on-line course offerings over the next year.

Lastly, please consider joining a committee at the local level or continuing on to the Region and International level. It is a lot of fun and very rewarding. So what are you waiting for?

SURVEYORS CORNER

Gregg Tuttle, Survey Chair

THIS MONTH'S QUESTION: "When surveyors place monumentation and use 'caps', is there any legal or industry limitation on what can go on those caps? For instance, many surveys are now being recorded. Is it feasible to put that recordation number on a cap? What are the limitations of what can go on this?"

BACKGROUND REFERENCE: The following is taken from the Arizona BOUNDARY Surveys' MINIMUM STANDARDS (approved by APLS, 04-12-2001; approved by AZ/BTR, 02-14-2002), item # 9): The following standards apply to establishing, replacing or setting boundary monuments:

--If the monument is at either a Public Land Survey System section or ¼-section corner, refer to applicable state statutes relative to monumenting those positions.

--Monuments, including the surveyor's Arizona registration number thereon, shall provide a degree of permanency, consistent with that of adjacent terrain and physical features.

--Whenever and wherever practicable, new or replacement boundary monuments, and witness corner monuments set shall satisfy the following minimum criteria:

1. The body of the monument shall be of metal or other such durable material.
2. The body of the monument shall be at least 16 inches in length.
3. The body of the monument shall be at least ½ inch in diameter.
4. The surveyor's Arizona registration number shall be affixed to or clearly stamped into the body of the monument.
5. The monument shall be magnetically detectable.

As can be seen, the MINIMUM Standard requirements are for only the Arizona registration number to be attached to ALL NEW, and Replacement, Monuments. They need to be clearly stamped into the body of the monument. Under current interpretation a 'cap' would be considered a part of 'the-body' of the monument. The question as to what LIMITATION(s) of what can go onto the monument, (and/or the cap), is an interesting one. It should be noted that state statutory requirements (such as ARS 33-103-A. through -E., "Monuments at section and quarter section corners; reestablishment of corners; monument requirements; destruction of monuments; classification"), and state regulatory rules, (as noted above), are MINIMUM STANDARDS, and, as such, do not set MAXIMUM LIMITATIONS.

Now, no political subdivision of this state, (county, municipality, or other Arizona governmental entities), can make ordinances, rules, codes, etc. which are LESS STRICT than the state statutory and/or regulatory requirements. However, any such regulatory authority can have STRICTER requirements. Let's say, as an example, that in its contract for professional land boundary surveying services, one of the AZ county flood control districts wanted additional information stamped onto any new and/or replacement monuments set in conjunction with land boundary surveys commission by that agency. Not a problem. Include in the proposed contract documents and negotiate, as necessary, to obtain what is considered reasonable and necessary.

As to stamping the 'recordation number' onto a new property land boundary monument - - That is an 'interesting' conceptual idea. Of course it can be done. But at what (significant) additional time and expense? First a results-of-survey drawing, illustrating the monuments set and/or accepted as part of the survey, would need to be recorded. Then, after a recording number was obtained, someone, under the direct supervision of the responsible registrant surveyor, would need to revisit each and every new and/or replacement monument, on that survey, and stamp that information onto the monument. It would probably require the surveyor to use larger 'caps', (such as a cap 3-inches in diameter, or even greater), to ensure enough area to stamp the typical, multi-digit, recorder's numbers onto the cap. Doable? YES! Economically more expensive and time consuming? YES!!

Under the new MINIMUM STANDARDS almost all land boundary surveys, (after 2-14-2002), will probably need to have a results-of-survey drawing recorded. Although it might be somewhat beneficial to have the referenced recording number on each monument, some may argue that the increase in time, and increase in costs, associated with current survey, would far outweigh the potential future benefits, if any.

Also, while we are discussing land boundary monuments, please reference the APLS / AZ-BTR Minimum Standards, item # 8, sections A through E. "The land surveyor shall represent the locations, consistent with the best evidence available, of corner positions and boundary lines, as follows:

--If the land surveyor rejects an existing monument the land surveyor shall create a results-of-survey drawing that discloses the evidence, and shall explain in detail, the reason(s) for not accepting the monument. The surveyor shall file the drawing in the office of the county recorder, and provide a copy of the "record of survey" to the client.

--When accepting a found monument of the surveyed property that does not have any record or physical evidence identifying its creator, then where practicable to do so, the surveyor accepting the monument shall affix his/her registration license number to the existing monument.

--In no instance shall the surveyor be required to remove existing monuments unless the installation of a new monument is necessary to preserve the position of the corner. Existing monuments so replaced shall be noted in the field notes, and on the results-of-survey drawing or plat map, and where practical, shall be buried as a memorial alongside or beneath the new monument.

--These minimum monumentation standards are not meant to apply to natural boundaries. These standards recognize that there are land surveys where the placement of monuments is not normally required, such as easement determination surveys.

--Any land boundary survey performed as the basis for any division or partition of land shall cause all boundary corners to be monumented."

AzBSMS Item # 8, section C requires the land surveyor to affix his/her registration license number to an existing monument, (where practicable to do so), when accepting a found monument that does not have any record or physical evidence identifying its (the monument's) creator. Should the surveyor come back later and also affix the recordation number to this monument as well as those set or replaced by the surveyor?

Referencing AzBSMS # 8.D, would the questionnaire wish to monument easement corners? With the recordation number? I believe that although any appropriate regulatory authority may request recordation numbers to be affixed to monuments, it will not significantly increase the effective advantage of doing so when measured against the inefficiencies of extended time and financial resources.

In any case, it is the personal opinion of your friendly neighborhood surveyor's column author, that neither any new state statutes, nor any new state regulatory rules will be adopted, which require more than the current minimum standards, (for identification information to be affixed to monuments), on to the foreseeable event horizon, (in this case, more than a decade away). But that's just my opinion, I could be wrong!

I hope that this has answered the questions concerning MINIMUMS and MAXIMUMS of monumentation requirements relative to land boundary surveying.

VALUATION CORNER

Jared N. Huish, MAI, SR/WA, Valuation Chair

Eminent Domain – Can it be an abuse of Private Property Rights?

On Friday, August 16, 2002, I attended a luncheon at Coach House Lounge at 7011 E Indian School Road, put on by the Goldwater Institute. It was standing room only, as over 100 people were packed into a 25' x 25' area of the lounge, including 6 people running for office, 2 members of the Mesa and Scottsdale City Councils, 2 City Managers, a reporter with Channel 5, Directors of the Goldwater Institute, several attorneys who specialize in land use law, and representatives of several property owners experiencing eminent domain action. The meeting was being held in the Coach House Lounge, because its owner had waged an extensive eminent domain court battle with the City of Scottsdale, and succeeded in having his property withdrawn from what had been a re-development area. Previously as part of a re-development area, Scottsdale had endeavored to acquire the Coach House so it could be torn down along with the adjacent parcels and made ready for new development. As you drive east of Goldwater Parkway, along Indian School Road, you see a lot vacant land on the south side, except for the Lounge. As you drive west of Country Club on Main, you see vacant land, except for Bailey's Brake Service. Could it be that the Institute for Justice (representing Bailey's Brake) could prevail on appeal, and have the Eminent Domain action against his client reversed, and the City of Mesa not be able to acquire Bailey's Brake for a much larger re-development by Lenhart's Hardware? **At issue is whether or not a condemning authority can acquire private property for private use via the declaration of a 're-development area'.** The 5th and 14th amendments are referred to as the basis for eminent domain laws in the United States and a huge body of law has evolved defining how condemning entities can acquire property for 'public use'. The 5th Amendment of the US Constitution asserts: '...nor shall private property be taken for public use, without just compensation'. Since the courts early on adopted, and have retained, the concept of market value as the measure of just compensation, the United States, as a matter of general policy, bases its land acquisitions on market value appraisals. Anytime we prepare an appraisal for an agency, we are doing it based upon the Constitution. It is the duty of the state, in the conduct of the Inquest by which the compensation is ascertained, to see that it is just, not merely to the individual whose property is taken, but to the public which is to pay for it' (Introduction – Uniform Appraisal Standards for Federal Land Acquisitions).

"Armed with the 1997 re-development statute, Arizona municipalities are now able to ignore the strong protections for individual property rights in the US and Arizona Constitutions. The worst abuses of the power of eminent domain involve the taking of private land for the benefit of private citizens and corporations" (page 6 Eminent Domain Abuse in Arizona – Goldwater Institute – AZ Issue Analysis #174). If Bailey's Brake prevails, and the AZ Court of Appeals rules in its favor this fall, it could jeopardize several municipal driven re-development projects throughout the state of Arizona. That is why there is much interest in the outcome of the Mesa v. Bailey case from several communities who have actively utilized eminent domain to acquire large tracts of land and later plan to turn over to developers for development, often at subsidized prices for the land. If the Goldwater Institute and the Institute for Justice (Clint Bolick) have their way, along with a few public officials in the East Valley (who were at the Coach House), the 1997 law permitting cities to acquire private property for private development, will be declared unconstitutional. In the Arizona Issue Analysis #174 article written by Attorney Jordan R. Rose for the Goldwater Institute, there is a call for the abolishment of the 1997 statute allowing the creation of re-development areas. In the same article are suggestions on how Eminent Domain is not necessary for new development, including the use of moral persuasion and community pressure to try and persuade the 'holdouts' to sell, rather than be forced via threats of condemnation.

As 'eminent domain appraisers', we may find a slow-up in appraisal assignments as certain cities put their re-development projects 'on hold' until Mesa v. Bailey has been decided. In the mean time, we will continue to hope for assignments wherein private property is acquired for public use, as was originally intended by the authors of the Constitutional Amendments who used the phrase '...nor shall private property be taken for public use without just compensation'. How exciting to be in an area of valuation that the need for our services is recognized by the Constitution of the United States.