

Concerned Members report and comments on the Annual Board meeting of SLPPOA – September 9, 2016

NOTE: this is not the official Board meeting minutes that the Board is responsible for producing

Authors notes and comments

- *Despite the education and expertise of the people who reside/own in SLP, the association has a deteriorating water system now at loss of ~14 gal/min (over 7 million gal/yr), deteriorating roads with high voltage electric lines exposed rendering unsafe conditions, a lawsuit against the Board to protect the rights of members to the oversight of association management, a community relations board director that incites discontent among the members, and a disease of apathy and complacency*

Annual meeting called to order 2pm

Board members present: Kilburg, Bennett, Brophy, Nyhan, Veverka, Otero, Fredlund

Board member absent: Ballman, Vergamini

Residents present: Corn, Cooke, Stanley, Thole, Star, Van Ruyckevelt, M. Moore, Partridge, Kent, Horan, Weary, Herrera, Schmitt, Hines

There was a call for the quorum vote count by Thole

57 ballots meets the quorum *Attendance was noted at about 15 families - a 10% turnout and only 57 of 155 lots (35%) responding by mail. A disappointing show of those who care about the governance of this association.*

Agenda approved by Corn.... second by Stanley

Cooke – firewise.

Cook passed around a sheet to acquire signatures of all those members who have dedicated hours of volunteer work to clear their properties of trees and brush. Every volunteer hour helps keep the status for a firewise community .

LCFVD Chief Taylor made a short presentation about fire and emergency status in the area. He announced there were 12 members from SLP volunteering in the department. He stated there were 2 small fires during the year with lots of support crew.

He advised to continue to call in burn permits and that the permits vary as to how long they are in effect.

He stated that getting the water storage tanks from Intel are still in progress. The first 2 tanks will be installed at station 1 in La Cueva and that in a few years SLP may get a tank as well. These new water tanks may reduce fire insurance for the homeowners.

Approval of the minutes for 2015 were temporarily postponed. *They were not posted on the web for member review before the meeting giving no member the opportunity to read, review, or comment prior to a vote.* Thole suggested they be posted earlier so members could be prepared to vote and make comments at the next annual.

It was reported that there have been home sales: 6 in 2015, 5 in 2016.

Thole questioned how much does an owner have to pay for disclosure statements when wanting to sell. Kilburg stated \$150 was a competitive price based on other communities in the area. Thole asked why the charge if the documents are already available electronically. Kilburg stated that realtors don't want to spend time extracting them from the website. She also stated there are a set of forms that are part of the disclosures that need to be filled out.

Treasurers Report:

Operating account ~ \$103,600

Reserve ~\$ 82,000

Special Assessment ~\$5218

Funds are available but deterioration of our water system and roads continue.

A transfer was approved of \$35,000 from the operating account to the reserve account that had accumulated in the operating account over the years. *Carryover amounts were questioned in the past and are finally being reported. According to the financial handout the current checking/savings total **\$191,800***

There was \$18,000 transfer from the operating account to the reserve account to pay for the 1st 1000 ft of water line replacement in system 1 in August.

The special assessment account will be closed out when the uncollected/outstanding fees are resolved.

Delinquencies total \$17,800

There is still \$4320 of special assessments outstanding. *No accounting for the difference reported in the special assessment account and that which is still outstanding of \$998.*

Delinquencies of \$16,000 have accumulated from 3 properties in probate and foreclosure. The largest outstanding delinquency is \$8500 and has been accumulating since April 2012. Monthly interest continues to grow on this account and exceeds \$100/month.

It was reported that the attorney states that the community won't be able to collect on one of the past due accounts and the community will have to write it off as bad debt. This will be discussed at next board meeting. *The question still remains, how long did the board wait to take action? And what action, if any could they have taken early to secure the unpaid debt.*

It was stated that a certain amount of past debt may be collectible after the master sale.

No information was reported on the other two outstanding delinquent accounts.

There are 6 members still owing approximately \$1678 in past dues.

It was reported that they are all making payments, however there is a need to move one into collections. *Payment plans sometimes only forestall the potential for an eventual non collectable account.*

They assured the members that they do not disclose the names of the delinquents. *But if the account exceeds \$500, and a lien has been placed on the property, the information is publically available at the county clerks office. There has been no accounting for the number of delinquents that fall below the threshold.*

Year to date the Board has collected \$106,950 –from annual assessment and added money to the reserve acct. *This amount should not be assumed 100% total collections in a given year as the amount includes past years dues.*

The lawsuit and *other legal expenses* has greatly exceed the legal budget.

The insurance rate jumped from \$4000 to \$12,000. The Board had to find a new carrier when the Board made a claim that exceeded the carriers limit causing the carrier to terminate the policy.

Sunland Mgmt is doing the quarterly financial reviews and the monthly bank reconciliation that offers a separation of duties.

The Board has been corresponding with the new management company, HOAMCO for about 2 yrs. The Board was given a presentation on their services but they will not provide anything other than financial services until the lawsuit is settled. They will be taking over the books on Oct. 1.

HOAMCO is charging a base rate of \$375/mo. plus tax and fees. HOAMCO will be following our bylaws and allowing inspection of only those documents that are specified in the HOA act. *According to legislative intent of the HOA Act, the Act does not limit the types of records however the Board and the association attorney have ignored the law and declare the SLP Article IX bylaw provision invalid. We are waiting to hear how the court applies its interpretation of what "all" financials records includes.*

Roads

Veverka has met again with Luster, the contractor that was to do some work on Los Griegos, and the news is that because of the exposed high voltage lines there may be a need to close off parts of Los Griegos. There is no ground left on the side of the roads to use and it will be major expenses to bring in fill. Luster will not bring out expensive equipment to work on the roads until conditions change. *There was \$30,000 earmarked early in the year for repairs, and nothing has been accomplished. Yellow and red tape has been appearing over the past years and has now*

become a hazard for drivers and may compromise our insurance policy should an accident occur.

There was talk again about grants, *but there is no further indication that any effort has been made.* Reengineer the roads will be needed.

The high voltage electric line is red taped and exposed in a small rut about ¼ mile above booster station. Veverka stated he can't get Jemez electric to respond. He stated that maybe a property owner who lives on the road should contact the Jemez electric coop board.

Millings might be available but the road would need about 24" of gravel and crushed rock. *Lots of talk, but no solution was not forthcoming*

Water maintenance

The new flow meter has given the Board a better understanding of the water loss problem on system 1. The first 1000 feet of line replacement was claimed to have reduced the 17 gal/min loss to ~13.5 gal/min. The next 1000 feet of line replace will commence on Sept 22. This replacement of line is hoped to reduce the loss to 8- 9 gal/min. Veverka is hoping to reduce the leak rate to 50% this year. He stated that he was disappointed with the leak detection company hired earlier in the year. *This report has never been posted.*

He stated there are lots of leaks on private property and that the meters give them a better analysis of water use and loss.

In March the booster station was shut down due to an electric problem.

In April the Aspen well pump needed to be replaced.

Firewise

The US Dept of Agriculture was responsible for the thinning project grant for 6 property owners. It is unknown when the grants will be dispersed and the 50% grant stated will not necessarily be the standard. Each thinning project grant will be evaluated before the work begins. It may be another year before the grants are available. If members want to do their own thinning they can contact the Cuba district for details.

Cooke has a list of people that can work on properties; fellers, arborists etc. She will provide the list to the Board. There was discussion about the stems per acre and the SLP covenants. Cooke mentioned the 400 stems per FS regs., and stated that the FS has no authority on private property. The Board will continue to address the covenants.

There was a 500 acre prescribed burn last year.

This year they expect to burn 2000 acres on Virgin Mesa, 40 acres on Thompson Ridge, and another 350 acres in the Vallecitos area.

Corn gave a short presentation on the first 1000 ft of water line replacement. He stated that meters allowed for a better quantification of the loss problem. He recognized the committee members involved in the planning and helped during the two tests. The new lines replaced old

lines that were approximately 43 yrs old. He stated that the medium to long range plan are to replace the worst sections.

Stanley offered some details about the testing and instruments used. The reports will be online.

There was further discussion about the benefits of meters.

Water System Compliance

Nyhan presented a handout that included a plan for the SLP water system. He stated that grants would be better than loans. The basis of his talk included revisiting the possibilities of becoming a Mutual Domestic. There were many unanswered questions in his presentation. He stated a changeover would take at least 1 year to develop. *Mutual Domestic is a old subject that has been discussed and revisited over many years and has substantial consequences. When and if this proposal again comes to the surface, we expect an honest discussion about the pros and cons.*

Website:

There has been no change yet, but there was an indication that the Board may redesign the site.

Legal:

Brophy discussed the legal efforts being taken on some of the delinquents and that the Board preferred to turn these property owners over to the attorney instead of shutting off their water. He restated that there were 3 large overdue delinquent accounts. *The association has plenty of money to spare, better to pay an attorney than to try a cheaper initiative.*

Brophy gave some details on why our insurance carrier terminated our policy. It was stated a standpipe broke and flooded a resident's basement and that because the cost ratio of 400% exceeded the insurance's policy standards, that the policy was cancelled.

He also stated that the Board tried to put in a claim to cover the lawsuit, but was denied as the claim was put in too late.

After the cancellation, the Board got a quote from Mesa Direct for part of the insurance coverage and Travelers.

He stated that the lawsuit started at a cost of \$6000 in 2015 and that the current cost is \$30,783. The Board was confident that the lawsuit was settled after the July 2016 trial, however the judicial process still allows the Plaintiffs the right to contest, which they have done. This has extended the lawsuit to another hearing on Dec. 12, 2016, and legal fees will continue to accrue. The Board is seeking legal damages. He stated that any and all claims made by the Plaintiffs are baseless and frivolous. *The court apparently hasn't agreed with this position as the Plaintiffs Motion to Reconsider was granted another hearing.*

Brophy commented that the reason mediation was not successful was because the Plaintiffs wanted personal information (PI). *The Plaintiffs made no demand for PI, the stated cause of the failed mediation is untrue, and the Board continues to make false accusations about the Plaintiffs and the lawsuit..*

Brophy commented on the reserve study which was recommended in the 2009 audit and the 2012-2014 audits. It was stated that in order to have a reserve fund there must be a study to justify the tax status. The contract for the reserve study is in place with Criterium Building Inspection Engineers and will be completed this year. The study will be posted on the web. *We still wonder why this issue was stonewalled for many months before any action was taken. A reserve study will help plan and budget for future repairs and replacements, but only if the Board follows the recommendations.*

Thole asked whether liens are public information. Kilburg stated they are, but the Board will not publish this information, and members need to go to the county clerk's office to obtain this information.

Thole asked if the attorney was knowledgeable in HOA law. Kilburg stated he was. *The attorney wasn't always well versed in the HOA law. In the early days of litigation, he used incorrect citations of the HOA law. His interpretations are also still being questioned. The association has paid \$30,000 toward HOA law education.*

Weary announced that although he didn't understand what was going on with the lawsuit that in his opinion this was a personal vendetta and that homeowners should unite and sue the Plaintiffs to recover the funds for the association. *We say to Mr. Weary, hold your opinions until you understand the fundamental nature of the lawsuit. This lawsuit affects the legal rights of every homeowner in this association. It's about oversight of possible fraud, and/or abuse, of association management. The lawsuit can stop at any time however, the Board has made no effort to stop the hemorrhaging of money. Has any member asked the Board why they haven't communicated or tried to mitigate the lawsuit? Apathy of your legal rights is dangerous.*

Nyhan began a presentation of the "History of the Concerned Members" that was abruptly interrupted by Van Ruyckevelt. A momentary argument ensued about Nyhan's deliberate attempt to untruthfully chastise "concerned members." The Board called for a member vote on having this report verbally presented. The membership declined. *The Board gave Nyhan free reign to construct this report for the annual meeting. It was surprising that the Board seemed to be unaware of the content prior to the meeting. The Board's granting to the community relations director the liberty to publically chastise certain members at an annual meeting shows a complete disrespect for the members they represent and owe a duty of care.*

Nyhan's 29 pg report was brought into question by the Board as some *or possibly all* on the Board appeared not to have been informed or familiar with the content of his handout. It was suggested it be put on the web and an open forum/special meeting be called with both parties in attendance. *The point of this presentation was not clear and not only stirred up resentment but was denounced as potentially libel. The Board has a duty of care and professionalism. Nyhan as a board member violated this duty.*

Volunteer Recognition

Those that helped with the water line testing were given gift cards *except Moore and Star who also dedicated 2 part time days to helping with the water testing. The Board does discriminate.*

Architectural/Parks

There were 16 inquires, 13 approved.

The minutes of the meeting were again open for acceptance. Only one objection from Star, as she stated she could not approve that which she was not given time to read before the meeting.

No new business or discussion was offered to the members at the meeting.

New Board nominees were introduced and gave short presentations of why they were running. John Fredlund, Lorraine Otero, Harold Corn and Judy Kilburg. No further nominations came from the floor.

No election results were recorded.

ss/bv

CM Report- Not for Copy