

Concerned Members report and comments on the Board meeting of SLPPOA – November 14, 2017

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

Authors' notes and comments

- Ask a question and let the hostility begin. *Not only were member's questions and comments undiplomatically attacked, but Veverka walked out of the meeting stating he didn't want to listen.*
- The Excessive Water Usage committee is drafting an amendment to the Bylaws. *According to the Homeowner Association Act, Section 47-16-15 (C), if any governing document (includes the Bylaws) is amended then the rest of the Bylaws must come into compliance with the Act. Some changes will negate the existing rights of property owners, some will add more restrictions. Read and compare the [HOA Act](#) to the [Bylaws](#).*
- The Board's lack of interest to enforce a few recent community violations have caught our attention. *We've been told that we as owners have the responsibility to take our own action and if necessary, sue. As one county enforcement person asked, so what do you have governing docs for if your Board won't take action?*

November 14, 2017, call to order 7:20 by President Judy Kilburg

Board Member Attendees: Judy Kilburg, Max Otero, Lorraine Otero, Tamara Weary, John Fredlund, Peter Veverka, Brian Nelson, Harold Corn

Community Member Attendees: Suzanne Star, Barbara Van Ruyckevelt, Mary Moore, Dave Schmidt

The agenda and minutes from the October meeting were accepted.

Finances- L. Otero

Operating account: \$76,200

Special assessment account: \$ 7,643

Reserve account: \$108,398

Delinquencies:

7 lot owners have delinquencies amounting to \$9,465. Four of these accounts are uncollectable at \$7600; 2 members are making payments. One delinquent paid recently after the Board threatened to foreclose on the property.

Two new lots were sold recently. Someone noted that now there is a shortage of lots available for sale within the subdivision.

Water Maintenance - Veverka

A leak occurred on Nov. 13 in System 2 on Los Griegos and involved the main line and feeder line to the meter. Repairs should be complete by Nov. 15. A new flexible pipe was installed between the main line and the meter. Mr. Veverka noted that the line in that area was only 18" deep.

Water Compliance - Corn

Chlorine readings in System 1 showed .36 ppm (this is considered a little high); in System 2 it was .19 ppm. Nitrate samples of the three wells showed .46 ppm at the Aspen well; .71 ppm at the meadow; and 1.95 ppm at the Hovenweep well.

The sanitary survey was recently completed. It is done every 3 years. It showed 10 discrepancies and had 3 recommendations. The Association has 30 days to respond and 120 days to fix anything related to these findings. Nothing major was noted.

Well and meter readings:

For System 1: 1,589,000 gallons were pumped. One member had a tamper flag evident due to a crimped wire and it had to be reset (which was not easy). The leak rate was 8.1 gallons/min versus 7.4 gallons the month earlier. There were 14 leak flags. Five lot owners used more than 7 K gallons last month, the highest user was 14 K gallons. *As of Oct., System 1 has a 61% leak rate.*

For System 2: 241,000 gallons were pumped; the leak rate was 2.3 gallons/min, six leak flags were noted. Two users were over 7 K gallons; one used 10 K gallons, the other used 18 K gallons. *As of Oct., System 2 has a 42% leak rate.*

The leak rate for both systems is up from last month.

Roads- Nelson

Problems:

On Bonito Way there is erosion caused by the installation of the blow down valve. Damaged culverts on Los Griegos and Shannon's Way need to be fixed before snow plowing.

Quite a few sand barrels have to be purchased and filled with sand and placed throughout the subdivision roads, especially in hilly areas. Reflective posts may be placed near the barrel to prevent damage from plows.

The cinder pile needs to be covered so it doesn't freeze. More cinders should be purchased. Mr. Nelson will be working to fix these issues or get a contractor involved.

The county has blocked off (with jersey bumpers) their cinder pile because one SLP member was stealing. The blocks are believed to be on SLP land and Kilburg will contact. There has been no approval on the county's use of SLP land. However, Fredlund stated, without Board authorization, that he told the county to move the blocks further away (on SLP land) from the fire stations so they could maneuver the engines.

Currently it appears that the county is encroaching on SLP land without board permissions. The issues of trespass, liability and water lines have been brought to the Board's attention for resolve. One county official stated that the cinder pile is used for the Jemez area in general and the stock pile has been placed in the SLP subdivision for county convenience. Over the past few years the county has not only used SLP land for material storage, but more county vehicles are being stored, and at one time a pile of broken cement curbing was dumped on SLP land. We contend that the Board should not grant the county carte blanche to use SLP land as a maintenance, construction or dumping yard for the county.

Legal- Fredlund

The property at 100 Los Griegos sold. In the process some of the debt will be recovered by the Association. As mentioned above, the Association lawyer threatened foreclosure on one property owner resulting in that owner paying the delinquent debt in full to the Association this month.

Star's brief in chief has been filed in the NM Court of Appeals. The Association has until December 21 to respond, but an extension can be requested. The Association's lawyer suggested bringing another lawyer with experience in

handling appeals be added to the defendant's team. Hays, the association lawyer will act as co-counsel. The Board voted unanimously to do this.

An issue regarding a dog breeder (puppy farm) in the Association will receive a letter from the attorney about this matter.

Last month the Board was going to address the collection of abandoned vehicles on a resident's lot on Los Griegos. It was noted that the letter has not been sent.

Trujillo, owner of a private property on the Ashley lane easement between FR 10 and Forest Road 134 rerouted Ashley Lane. *Moving the road is in violation of an arbitration agreement and Trujillo was confronted by 4 Ashley Lane residents regarding the violation. When asked for the paperwork to verify the original agreement, Fredlund refused stating that the Board was not going to get involved. He was reminded that the lawsuit was brought by the SLP Board in 2008 on behalf of the residents of SLP to preserve the access to the forest. Residents took up the matter independently and sent a letter to Trujillo advising him of the violation. Trujillo is compiling and working on putting the road back to its original siting.*

There was discussion regarding the "public" use of the road. Veverka declared that it is for public use. The legal agreement states that *Ashley Lane is for SLP residents and their guests, NOT FOR PUBLIC ACCESS.*

A building on a property in Unit 3 was thought to be encroaching on the lot line. But a new survey has shown this not to be the case. The Association will not pursue the matter further, but a private suit from a fellow Association member cannot be ruled out. *The new mantra from Fredlund is that instead of asking the Board for help in resolving CCR infractions, that owners take their own action and if necessary sue their neighbors. So what do we need a Board for?*

Firewise- Weary

Jan Studebaker will continue to send out fire notifications. Ms. Weary would like to find out how to get these notices.

In April, La Cueva holds a firewise meeting. Ms. Weary asked if SLP should have one of our own, perhaps in May. Maybe more people would attend and we could include a tour of the fire station, maybe include a dessert pot luck and

lectures on high altitude gardening and cooking. She also suggested it would it be a good idea to hold a CPR and a first aid class in SLP.

Mr. Otero asked what can be done when the phones go down in the subdivision and what is the emergency procedure. Suggestions included using walkie talkies or radio channel 9. There was no resolution to the situation.

Parks/Architectural - M. Otero- No report

Old Business

The order for the missing insulators and lids on the meter cans has not been resolved.

Webmaster. No one has offered to fill this position yet. The Association's web site will not have current information on it until the position is filled. Someone thought that water data might still be current.

No action has been taken yet on the leak flags.

Excessive Water Usage Policy- Fredlund

Mr. Fredlund reported on the committee's decisions to date. Three tiers for water usage are being considered:

- 1) tier 1 no charge for usage below 7000 gallons/month;
- 2) tier 2 \$1 for every 1000 gallons used between 7000 and 11000 gallons;
- 3) tier 3 \$1 for every 100 used over 11000 gallons.

Mr. Schmidt stated that the committee had not voted on these issues yet and still should be considered as proposals only. Three big issues still have to be settled:

- 1) the wording of the bylaw change that must accompany a vote on the issue of charging a fee for excessive usage;
- 2) a forgiveness policy for people with leaks associated with over usage;
and
- 3) an enforcement policy; how to handle people who do not pay their fees.

Mr. Schmidt suggested a meter lockout policy. Ms. Kilburg strenuously objected to this tactic and stated that current ways of handling delinquent debt should suffice and offered the excuse that the Board has legal advice not to turn off the water because of safety and health reasons. And that they could get sued. *There is no known legal advice that confirms Kilburg's statement, in fact as of Nov 2013, the attorney*

stated that remedies (a - e) in Article X Section 8 that included water turn off could be initiated within 3 month and not 6 months. If it's allowed in the Bylaws, then the Board has defense against lawsuits.

Bids for a management company are still in process. There are ongoing discussions with the current company to fix areas of disagreement and maybe HOAMCO would take on further responsibility. *No explanation of what these areas are was offered.*

New Business

Questions from the floor were addressed, however, *Mr. Veverka rudely walked out before the questions began. Not something you would expect from a Board member who represents the membership and should be interested in feedback.*

Star sent her questions in advance. *Discussion from the entire Board was expected, however Kilburg took the floor.*

Directed to Fredlund:

If the bylaws are amended to accommodate the excess water usage policy, how will they be brought into compliance with the State's HOA? Ms. Kilburg stated that the bylaws will not have to change. What will happen is that all the HOA provisions will go into effect. *Does the Board plan to slip through an amendment, without notifying the owners of the pending statutory changes that will affect owner's existing rights? Compare the [HOA Act](#) and the [Bylaws](#). Be prepared.*

Directed to Fredlund:

Star inquired why, when she asked for a copy of the recording of the annual meeting, she was denied. Kilburg replied that recordings are not for dissemination. Star questioned what was in the recording that a member couldn't review. Ms. Kilburg and Mr. Fredlund agreed that the recording was not an official record of the meeting, so it could not be accessed, just like their notes of the meeting would not be available. Star asked if it was a Board policy or legal advice. *No one offered that the decision had legal standing.*

Star stated that because the 2015 financial statement did not correctly reflect the bad debt error, the auditor added a restatement to correct the error in the 2016 statement. She asked why the budget doesn't include a line item for estimated uncollected receivables (bad debt or uncollectible account expenses). *You can't budget money you don't get.* Kilburg vehemently disagreed with Star's wording of "bad debt and error." *We suggest the Board read the definition of*

"restatement" in accounting procedure: "The need to restate financial figures can result from accounting errors, noncompliance with generally accepted accounting principles (GAAP), fraud, misrepresentation or a simple clerical error. A negative restatement often shakes investors' confidence and causes the stock's price to decline."

Star asked Corn how she could get a copy of the meter reading postings. Kilburg stated she should be patient and eventually, after the new webmaster is found they will be posted. However, some Board members thought that Mr. Schacht might be keeping up to date with this data. Star was told that it is inconvenient for the Board to send out her request because they would be overwhelmed if the other 150 residents sent in requests. *So why did they post this option in the last newsletter?*

Star commented that there is a rut at the corner of Mimbres and Ashley Lane over a main line valve that needs to be filled. Mr. Nelson said he'd look at the problem. *The rut has been there for a few months since the rains and those who drive by it during the meter reads have never attempted to fix it. Why not?*

Mr. Schmidt reported that he hosted a Forest Service meeting in which problems with roving cattle were discussed. He reported that the Forest Service admits that Trujillo is an abusive permittee and that he doesn't rotate his cattle as required. The FS will provide posts and barb wire free for property owners bordering Forest Service land who wish to fence off their land. *Our first question is why does the FS permit abuse of grazing rights? Our second comment is that this subject was attacked by Shurter a number of years ago only to find no enthusiasm from the Board or the property owners, but we support any efforts to stop the trespass of cattle in SLP.*

Mr. Schmitt also stated he was willing to do a write up for the Board about punitive damages; that we are not a charity and the Board needs to get tougher on delinquents. There is no reason to write rules with no enforcement. Kilburg stated that they file liens. Schmitt stated so what? People can live in SLP for 30 years and never pay off their liens. Kilburg stated that they can foreclose. *Yes the Board can foreclose, but we know of no foreclosure that has ever taken place except by a bank. Foreclosure is costly and the Board likely cannot afford the legal process, however to our benefit most homeowners pay up after a letter from the attorney is sent.*

Ms. Moore added that the Bylaws do allow for water shutoff.

Van Ruyckevelt commented on a trailer sitting on a previously sold lot and her concern was that the Board follow through and make sure that a structure is built in accordance with the CCR's; that the trailer does not become permanent.

Mr. Nelson said a structure near the right of way on Los Griegos that looks like a ski jump will be dismantled for safety concerns.

Closed session called 8:50 pm, no items noted for discussion.
Cars dispersed 9:20 pm

mm/bv/ss

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