

Concerned Members report and comments on the September 2015 SLPPOA Annual Membership Meeting

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

Authors notes and comments:

- *Residents reminded the Board that the Bylaws are there to protect member's rights and that the Board must either comply with the Bylaws or change them.*
- *A policy aimed at creating accountability for high water users can't be enforced. Time would be better spent working toward changing the Bylaws or changing the Association's legal structure.*
- *The website and listserv aren't the best way to inform the membership. A better form of communication needs to be created. And when the Board sends letters, include EVERY member.*
- *The President of the Board announced that an audit is being conducted for years 2012, 2013, and 2014. This is welcomed news considering the objections and lack of budgeting for one for the last 2 years, but information about it has been scanty and hesitant.*
- *The delinquencies are still high. We have lost more money the past two years on foreclosures than any comparable years in the past. Foreclosures do not have to equate to uncollectible accounts.*
- *Delinquent accounts have been written off affecting the Association's bottom line but that information has not been posted for community awareness. Removing past due IOU's from the books and not reporting it is a misrepresentation of the delinquency status.*
- *Statistics cite that 99% of dues income has been collected so far, but since we know that there are delinquencies, we assume that part of this is from past due accounts.*
- *The Board continues to evade the Bylaw provision for turning off water to urge debt payment. They initiated a policy to offer relief from liens to those owing less than \$500, and they appear to prefer spending legal funds to remedy delinquent accounts. Are we spending more in legal and admin fees than what we gain in recovering delinquent monies?*
- *The Board's statements about the lawsuit have been misleading and inaccurate. It was not the desire of some residents to sue the Association. It was the Board's reluctance to communicate and follow the Bylaws that forced legal action for compliance.*
- *The costs posted for the meter can assembly project failed to state that the pilot project, which installed 10 cans, was a proof of concept phase and was independently funded from the 2012 water maintenance budget. A breakdown of funds used to buy materials and install them and other maintenance conducted at the same time was apparently not tracked. Commingling costs and unsatisfactory accounting undermines an accurate understanding of the meter can assembly installation project.*
- *Problems with our water system call for more aggressive action from the Board....NOW. We have a ~68% unaccounted for water loss reported on system 1; we are pushing the limits on our State water rights allocations of 19+ million gals per year; and at least 8 members are using more than 10,000 gallons of water monthly and their systems appear to be leaking.*
- *The Board continues to throw money at roads...and they continue to wash away. We are disturbed by the excessive waste that continues without some better planning on the issue.*

- *We noticed there was not a peep about the Reserve Study. This study could cost a good chunk of change, has apparently been mandated through some unknown source, and could be the best investment in strategic planning this Association has ever made. Why no information about it?*

September 12, 2015 call to order 2pm

Board members present: Bennett, Kilburg, Nyhan, Ballman, Veverka, Otero

Board members absent: Brophy, Fredlund

Guests: 17 lot owners counted

No quorum membership list was initiated. No quorum was announced. *There was no indication that any proxies had been counted, so we don't understand the value of a proxy on the ballot. It was business as usual. Apparently envelopes, whether empty or not, substitute for actual member attendance. This is another interpretation of the Bylaws we find difficult to authenticate. We question whether motions and votes taken with disregard for quorum requirements is considered legal.*

Guest speaker Lee Taylor chief of the La Cueva Volunteer Fire Department -- his discussion points:

50,000 gal will be available at LCVFD from tanks that have been earmarked from Intel.

They are currently in design phase for installing the tanks by next spring.

The tanks originally designated for SLP may not be installed due to cost, but they are looking into grants. They feel the extra water storage would be advantageous to SLP because the community is in a bad location for fire.

Some new equipment was purchased to prevent injuries to EMS responders.

Guest speaker from the FS, Mr. Gallegos -- his discussion points:

There will be managed burns in the areas above Los Griegos. Each area to be burned has small acreage, however expect smoke (a map was posted with the areas).

They are going to clean up the lots they own along FR 10 and Hwy 4, but they need to complete an EIS first.

Ann Cooke passed around a sheet for members to record their hours spent in cleaning up their lots. These numbers will accumulate extra monies for the Firewise program.

The agenda was approved

The meeting minutes of last year were presented as handouts and the participants were asked for approval. There was confusion over when these minutes were posted as many had not had a chance to read them nor were aware they had been posted. *Not only were the members not alerted that the final copy was available for review, (as of Aug 5 a member did not find the annual minutes posted), but the minutes also do not accurately reflect the annual meeting of 2013. As the 2014 minutes were posted without notice, some members did not have a chance to offer changes. The original drafts of both 2013 and 2014 annual meeting with corrections can be seen on the archives link on www.cmslppoa.org.*

Motion to accept minutes passed.

A slide show presented a visual for the financial and other reports.

Treasurer

Account Balances:

Operating - \$106,016

Reserve - \$65,912

Special Assessment - \$28,938. This money will be put back into the operating account as it was "borrowed" to complete the meter can assembly project. *We challenge their accounting on this project.*

Total collectible and uncollectible delinquencies

From annual dues - \$9448.80 – *in years past the delinquency factor never exceeded half of this amount.*

From Special Assessment - \$5767 – *still have freeloaders on the meter project.*

The total delinquencies are \$15,216, *not much of a change from last year's number - \$15,554.*

Breakdown of collectible delinquencies

Annual dues - \$1550

Special Assessment - \$2149

Total collectible delinquencies - \$3705

Uncollectible totals from 3 properties - \$11,511

Annual dues - \$7893

Special assessment - \$3618

Two uncollectible accounts are due to extenuating circumstances. It was stated that some have been in foreclosure for many years. *We wonder why a more aggressive approach isn't initiated once assessments are due and not paid, despite the probability that foreclosure is imminent. The Board should take action immediately to position the Association favorably to collect. However, we have no accurate knowledge of these delinquents or what actions taken and when the Board initiated them.*

The projected annual dues income for 2014-2015 was \$106,950. It was stated that the Board collected 99% of these funds. *However it was not defined from what year some of the monies were owed; some members have been delinquent from years past. When they pay up, their money is added to this year's statistics, which now report that 99% have paid – a bit misleading if not explained clearly.*

The report included the fact that lien expenses are collected when the balance is paid. *The Board made a special effort to construct policy to relieve any member from a lien that owed less than \$500. We question why they made this policy when lien monies are added to a delinquent's outstanding account balance and are collected from the delinquent when the account is brought current. What don't they understand about the NM HOA statute 47-7E-6?*

It was noted that there was a \$24,000 carryover from 2014, which was distributed to other line items - \$6K for road maintenance and \$8K to install a new water line. About \$10K of this money is still unspent.

Sunland Management prepared the tax statements. On our property tax we got a rebate of \$822.

Wolford asked a question regarding a common practice of voting on treasurer report, but Bennett suggested that a vote wouldn't be taken on this report. He dismissed Wolford's question to later in the meeting, *which proved useless to Wolford as he had to leave before the meeting ended. As the Board doesn't adhere to any semblance of meeting governance, such questions don't get a response.*

Wolford also inquired about what amounts are expected to be spent on roads, and how much more is going to be spent fighting the audit which could have been paid for instead of turning the issue into a legal battle. The Board declared that they have no idea how much the lawsuit will eventually cost as the trial date is in Feb of 2016 and there are many more legal activities on the agenda before trial. The Board did note that the legal budget had been exceeded. *The Board evaded the question and gave confusing answers on what the issue was about. They apparently forgot that in the Oct. 2013 minutes they decided that they were going to accept the "management company's closeout statement to fulfill an audit," contrary to Bylaw provisions.*

Water

Three master water radio meters installed at the well heads.

A month-to-month breakdown on the leaks and fixes was discussed.

Level con has been an ongoing problem this year.

Compliance

Handouts were distributed about the tank inspections of system 1.

Star asked about the reports for the system 2 tanks and booster tank. It was noted that the Board will post those reports on the web. The booster tank was not inspected as had been originally planned. Only indicated problem was the over flow. *Interesting conclusion as a water system engineer warned of corrosion compromising the tank's structure.*

It was questioned and answered that all tanks are required to be inspected every 3 years.

Corn gave a presentation of the Meter Can Assemble Project and some lessons learned.

To accommodate 2 properties on Outliers Rd, a new water line trench was dug and poly pipe installed which makes it less problematic due to no joints in the lines. *This had nothing to do with the Assembly Project, but was necessary to install 2 cans for properties on Outliers.*

The main water lines in System 2 are at a mere 14 inches below the road at the top of Los Griegos.

It was suggested that the water systems need more isolation valves.

The breakdown of the meter can project was questioned by Shurter and Star. They pointed out that the \$25,525 reported as "borrowed" from the operating account for the pilot (proof of concept phase) was in fact inaccurate as the pilot project was an independent project and the Board at the time allocated \$15,000 from the water budget to fund it. *The Board conveniently commingled both projects and declared the overrun \$15,000 higher than it should have been. We are not sure that any additional costs of the pilot project could not have been paid for from the water budget in 2012 which at the time still had 29K in the account.*

Firewise

The Schachts presented a stems per acre and density/growth discussion suggesting the value of thinning for more healthy trees.

Vegetation management.

Nyhan presented the efforts of the Jemez Electric to thin trees near power lines for the safety of the community.

IT

Schacht, webmaster, presented information on how to setup and access a personal account and what water usage data is available to the property owner. His data was compiled from the community water personnel and suggested that the SLP State water rights allocation of 19+ million gallons per year is being compromised due to unaccounted for water loss and leaks.

Van Ruyckvelt asked whether water billing has been considered. The Board indicated no plans for water billing and seemed confused as to how our Association would incorporate the idea. Shurter commented that if changes are to be made on water billing this initiative needs to start early with plenty of education. Star suggested that in addition the MDWA idea, that a water coop is another option.

The Board was intent on excusing the main line leaks and all other existing leaks as problems that needs attention first before pursuing the idea of a new governance structure concerning water. *We continue to stress that this community may find itself compromised for funds when our water systems expenses become greater than what our budget can afford. Special assessments are certain to be a difficult pursuit,*

even with plenty of education about our problems. Continuing to wait until everything is perfect is not good long term strategy. The Board needs to start planning now for the future. Reactive efforts are not as effective as proactive efforts.

Roads:

It was noted that many of the high slope roads are in need of repair. *Nothing new here folks. What's not been reported is that money continues to be spent with little long term value. This year one \$11,000 project recently completed is already failing due to improper run off design.*

It was indicated that \$8000 has been set aside for snow removal and that the road sander is back and running.

The topic of spreading out and diverting water to manage degenerating condition of our roads was announced. *The Board at the Sept 2015 board meeting allocated \$20,000 for more road repairs, without any mention of a plan.* More culverts were mentioned. Star asked about a plan for culvert cleaning responsibility. The Board could only answer it is working on figuring that out and it might be a combination of property owners and Association responsibility. *That is a plan that will result in failure. How is the Board going to mandate that a property owner be responsible for maintaining a culvert? It will ultimately end as an Association expense and a plan should be ready before dumping more money into new installs so we can watch them, over the next years, clog up.*

Another suggestion from Bennett was to use ground from the surrounding banks of the roads to help fill in the roads surface loss. *That might meet with approval from some, but it has been our experience that tearing into someone's personal property for free dirt can get confrontational.*

It was also mention if you have a ravine through your property the property owner needs to allow water to disperse on its natural course. *Tell that to the resident that has water runoff into their garage. No it's not the resident's neighborly duty to agree to a lack of planning for roads and landscape runoff to compromise their property or structure, and once again we heard nothing about the Board coming up with a PLAN.*

It was brought up again about needs for a basic engineering plan for our roads. The contractor will be able to give us a schedule of maintenance when repairs are done. *This may only mean that we will not see an engineering plan for the roads, and that the contractor will now be retained for road maintenance, and the budget will need to reflect his ongoing costs.*

Shurter commented that culverts installed at strategic junctions of Association roads with FR 10 could offer more value for the dollar as most residents count on access from the Association roads to FR 10 for ingress and egress. She mentioned that private residents may be available to help with the labor at the junction of Ashley Lane and FR 10, however they should not be expected to fund the cost of the culverts and the installation of them.

Legal

The report stated that expenses have been concentrated in three areas:

1. pursuing legal avenues on delinquencies
2. the lawsuit – the Board was sued for lack of provision of information and improper practices
 - a. the parties met in mediation, but this failed
 - b. the additional cost for the lawsuit will attempt to be recovered, however the final determination will be decided by the judge
 - c. lawyer's advice -- it was stated that an audit has been started and will cover 2012 – 2014. It is estimated to cost \$9000 and will be conducted by McKinney & Assoc. – the same company that did the prior audit. *Note: a contract for this activity has not been shared*

with the membership. Lawyer's fees will need to be paid for some required legal responses to fulfill documentation for the audit.

Brunish asked why the Board suggested in a letter that the terms audit and review were the same. She identified her involvement with other Association Boards and her responsibilities as Treasurer on one of the Boards. She suggested that the Board needs to follow the Bylaws or change them.

Moore questioned why she had not received the recent Aug. 5 letter sent by the Board to presumably the entire membership and why she was removed from the mailing. Shurter, Van Ruyckevelt and Star also indicated that they had not received the letter. Bennett suggested he had no idea what happened and asked who needed a letter. *We guess there is no oversight on the person responsible for the mailings. Or more likely it was a deliberate action. We'll see if they remember to send copies.*

The letter Moore acquired through a friend suggested that nothing had changed since the original response to the concerned members' questions asked in their letter dated July 25, 2014. So why wasn't the audit engagement letter, that was signed by the Board president on July 21, 2015, made public? *It's obvious that something IMPORTANT has changed, but why is the Board reticent to explain or provide details to the membership? An audit is a big expense and it's long overdue.*

Community relations

Gift cards were given out to volunteers.

Architectural/Parks

Picnic tables were refurbished and the parks needed extra mowing due to the rains.

There was one request submitted to the architectural committee and lots of calls but no follow up from property owners.

Cooke requested that the parks be thinned of the seedlings.

Carolyn Corn commended the Board for their long hours of dedication. *As with every Board, there are people who have helped changed the community for the better, and there are people who just take up a seat. Board members who promote misinformation, restrict communication, and deny due process for members do not deserve applause.*

Nominations were requested from the floor. No recommendations.

Star asked if either of the new nominees on the ballot were there to introduce themselves and speak to their reason for participation on the Board. Bushnell accommodated with a brief summary of his reasons to volunteer. Vergamini did not attend the meeting.

It was stated that there are 5 new property owners. Houses are selling however realtors are concerned over the lawsuit. The new law stipulates that the disclosure documents have to report lawsuits. *The Board is apparently aware of the HOA law, but only the parts they wish to abide by.*

The discussion period designated in the agenda for those who were anxious to participate was postponed until after the counting of the votes. *Whether it was deliberate, or not, it needs to be remembered that this is a member meeting not a Board meeting. We remind the Board that we expect them to properly represent us, be truthful with the facts, and give us a voice in this community, but, regretfully, we are getting very little of this.*

There were 55 envelopes received for the election. 49 were needed. *The Board members conducted the ballot count.* Veverka, Nyhan and Bushnell received the most votes and were elected to the Board. Mr. Vergamini will be an alternate.

Discussion

Water billing was brought up due to the number of high water users. A Board member suggested that meters were just completed and it was assumed by the Board that many members were worried that water billing was really a hidden motive for the meter project. *This was another misleading assumption. The special assessment stated that voting for meters was not also voting for water billing. It didn't suggest that water billing wouldn't be the next needed improvement. Ask today and there may be plenty of support, but first it would be prudent to give the residents the opportunity to comment on the issue. This is not just a privileged Board decision.*

Shurter suggested that water billing planning should be started now as it will probably take many years to educate the members and gain acceptance of the idea.

Bennett talked about a policy to curb water abuse, however, Star interjected that the policy would be unenforceable as the Bylaws do not limit water usage. In addition to Bennett's comments about creating a Mutual Domestic Water Assoc. to initiate water billing, Star suggested a water coop could also be considered. Additionally, breaking out the water systems from the roads and other community services would require legal changes.

Moore commented on the need for better communication between the Board and the membership. The Board's information is still hard to understand, and lacks in quantity and quality.

After two water audits, system 1 is showing a 68% unaccounted for water loss, system 2 has shown a negative water balance. It was asked if the two water audits/balances on the systems have shown parallel results and it was suggested that it appears to depend on the level of the tanks during the reading. The ability to get accurate data to work with is still being refined.

Brunish brought up a misrepresentation related in a Board letter that stated audits and reviews are the same, which she pointed out, is not accurate. She stated that the Board needs to comply with the Bylaws or change the Bylaws.

Bushnell inferred that the State of NM oversees the governance of Associations, and their rules supersede Association statutes. He stated that Bylaws are subsidiary to State laws. *Caution needs to be addressed concerning these assumptions as State law, depending on the circumstances, does not always trump what the Association docs say.*

Moore questioned one high delinquent account. Kilburg stated that this was the result of a death and foreclosure. She stated that when the delinquent exceeds the threshold, liens are filed. *We have never been informed as to what the threshold is and when a property becomes delinquent, why Bylaw remedy is not taken immediately. The Board has adamantly restricted any information about their process.*

It was mentioned that the Board wrote off some of the IOU on one property because the real estate person refused to pay more than the current year's debt. *We have never been informed about any write offs or do we know where they are reported in the financials. But they affect all members in this community and the bottom line accounting of the Association. There is no reason why members should be denied information about what delinquencies REALLY cost us.*

Never heard the meeting adjourned.