

## **Concerned Members report and comments on the Board meeting of SLPPOA – July 10, 2018**

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

Authors' notes and comments

- ***If you can pay, you can use...*** what we're dubbing the new water "policy" proposal that is heading for a Bylaws change vote. The plan developed by the committee is nothing more than a fandango, as the issue still does not address fixing leaks, encouraging conservation, or preventing excessive use.
- *The arguments challenging the excessive water usage policy:*

*We have averaged since 2016, 550,000 gals./mon. in water loss (both sys.) We are currently at approx 50% water loss combined on both systems. (6.6 million gals./yr.)*

*The national water use per household average is 80-100 gals./day (3000 gals. / mon.) Fifty seven SLP residents or over 1/3 of our property owners use over the national average.*

*If every property is allocated 7000 gals./mon. (over 2x the national average) with our current water system leak/loss, we will exceed our water rights allocation by 297,000 gals./yr leaving nothing for fire fighting, infrastructure breaks, declining well water levels, or state imposed restrictions.*

*The 7000 gals./mon. \* were based on 155 lots. The plan did not account for 4 lots that developer Bootzin still privately owns and 22 lots in Unit 9 that, to the best of knowledge, have not been legally withdrawn from claim to the SLP water rights.*

*There is no shutoff threshold for an excessive user. If the user can pay, they can continue to use and abuse.*

*\* This proposal exceeds the state law maximums of 6,789 gals./mon. per household. (19.27.5. THE USE OF PUBLIC UNDERGROUND WATERS FOR HOUSEHOLD OR OTHER DOMESTIC USE IN ACCORDANCE WITH SECTION 72-12-1.1 NMSA- 19.27.5.14 C2)*

Call to order 7:20pm

Board members present:, M.Otero, L.Otero, Kilburg, Veverka, Corn, Weary

Guests: Peterson, Grove, Van Ruyckevelt, Star, Stillman, M. Schmidt

Water committee members present: M. Moore, Stanley, D. Schmidt, Cantrell & son Josh, B. Shurter, J. Fredlund (There were 10 members on the committee.)

First part of the meeting was devoted to a presentation of the water committee on the excessive water use policy recommendations.

Frelund gave a powerpoint presentation that represented the conclusions of the committee.

Summary:

- SLP has no mechanism for deterring excessive use of water.
- There is nothing in the Bylaws to require conservation, and excess use is increasing. *No substantiation was presented to confirm that excess use is increasing. One year ago we had 13 users in excess of 12,000 gals./mon. and 21 users over 7000 gals./mon. No substantial change.*
- The current water allocation is unfair and unsustainable *Committee subjectives.*
- The majority of residents are paying for a small minority using many times more water than is reasonable. *Nobody is paying more than anyone else. SLP dues are the same for everyone and that includes cost for water delivery.*
- The excessive use trend must be reversed or we will exceed our water rights.
- Groundwater is decreasing . *No substantiation was presented to confirm this. We have no analysis of our water level depths in our wells or whether the groundwater levels in the Jemez are dropping.*
- Rate tiers will be established and they will be defined as "assessments" instead of "billings" as it may give SLP a tax break. *Assessments according to the Bylaws must be "fixed at a uniform rate for each lot." The proposal calls for those who use less than the allotted gals./mon. will not be assessed. We question whether this is legal.*
- The committee claims that the state average is 7,000 gals./mon. *The state **maximum** is 6,789 gals./mon.; not the average. Currently 7000 gals./mon. will exceed our water rights allocation, due in part to our 6.6million gals./yr. leak loss.*
- Two tiers are proposed --the tier structure will not change if the system leak/loss goes down:
  - Non punitive -- up to 7000 gals./mon. allotment included in annual dues = no billing.
  - Punitive -- over 11,000 gals./mon. = users pay their share of incremental costs.
- There will be a leak forgiveness policy. Unplanned leaks must be fixed promptly or supply to the leak(s) must be turned off promptly. The default time to fix a leak will be one month from discovery. *Turnoff is probably not legal nor does it appear to be supported by the Board or the*

*attorney. Property owners under 11,000 gals./mon. with leaks, will have no incentive to fix.*

A number of comments/questions came from Josh during the presentation about the committee singling their family out.

Shurter's comment, that if the Board did not take the proposal in its entirety, that the committee wouldn't stand behind it. Both Fredlund and Schmitt disputed the statement.

It was asked what happens next. Kilburg stated that there will be a separate meeting of the general membership where it will be discussed before a Bylaw vote can be initiated.

Schmitt interjected that Bootzin's well went dry and that the ground water levels are going down. *Corn clarified that it was Bootzin's private well and it did not go dry but the production of the well is failing and may require blowing out the well or replacing other parts. There has been no data to substantiate what the condition of our ground water levels are for the SLP wells.*

Kilburg stated that in years past we did almost exceed our water rights allocation.

The proposal was *or still is being* addressed by the attorney. *New information regarding lots left out of the calculations and claims on SLP water rights was questioned at the end of the meeting in new business.*

Kilburg stated that in addition to the excessive water usage Bylaw change, that there were a few other changes that needed to be put on the ballot. Each would be stand-alone changes to be voted on separately on the ballot. Those changes included correcting ownership of the land shared with the fire department and a clarification of the assessment dues. *Neither critical to pursue a Bylaws change.*

*What the Board hasn't told you is, if **any** Bylaws changes occur, then our current Bylaws are required to come into compliance with the 2013 HOA Act; some provisions of our existing Bylaws will be eliminated or changed that could affect property owner's rights.*

Fredlund questioned whether the other changes on the ballot would distract from the excessive water use recommended change.

Moore asked if the Board supported the proposal. *The Board voted to accept it later in the discussion.*

Shurter made a suggestion about posting high users names; an idea of peer pressure. This suggestion was met with little enthusiasm due to the fear of litigation, defamation, and security issues.

Van Ruyckvelt asked for clarification on what the dues currently pay for and suggested this be explained in the upcoming member meeting.

Star asked if the excessive use policy incorporated any baseline for shutting people off if usage becomes extreme. She cited people who have the money will continue to use water despite the fees and asked how the Board would control this. Kilburg mentioned that she and the attorney were not in favor of shutting off.

Moore commented that there is remedy in the Bylaws, but was reminded that the Bylaws remedy can only be initiated if people don't pay their assessments. *If they pay, and they can use all they want, the Bylaws change will not accomplish the goal of mitigating excessive use.*

Weary stated that the histogram in the presentation was confusing need to be clarify for the member meeting.

The presentation concluded and Board moved into regular session.

Minutes and agenda approved  
Meeting started 8:50pm

**Treasurer:**

Balance in the accounts:

Operating - \$ 130,699  
Reserve - \$ 120,800

Past due accounts - 20 delinquents totaling \$14,651.

5 are probably considered not collectible at \$8,937. 15 are on payment plans.

\$660 was deposited into the reserve account.

Legal costs:

Lawsuit remains unchanged at \$51,949  
Other legal costs - \$959

Newsletters were mailed out.

The water conservation fee was \$192

**Water**

There was a big leak on sys 1 in the middle of meadow. It has been fixed twice because of the pressure. There were a number of volunteers helping.

The electrician brought all the permitting needed for Hovenweep well but we are still waiting to be connected.

**Compliance**

Water is testing is good. Residuals for sys 1-- .04, sys 2-- .06

Nothing detected in the TTHM samples.

Well meter readings have been filed.

The Hovenweep well is still off line.

The cast iron meter can lids have arrived and the antennas need to be installed before they are placed.

Corn reported that in June the wells had trouble keeping up with the demand.

Sys 1

pumped 702,000 gals. and usage was 394,000 gals.  
main line is at 7.1% gals./min or 44% loss at 308,000 gals./mon.  
11 leak flags and 16 users over 7000 gals/month.

Sys 2

pumped 406,000 gals. and usage was 209,000 gals.  
main line leak rate is at 4.6 gal/min or 49% loss at 198,000  
gals./mon.  
5 leak flags and 7 users over 7000 gals/mon.  
Six of the highest users had no leak flags

Kilburg inquired if there are any plans to replace more lines this year. Veverka stated that more testing is needed.

### **Roads**

Raue will be unable to assist with road work for the next month and half.

Peterson reported 20 ft of cable exposed on Los Griegos there is about 20 ft of wire. It was surmised that it was the telephone cable and that Windstream needs to be contacted.

Culverts up on Los Griegos and other roads at the top of the association are clogged and diverting water down the roads.

Red tape is starting to show at the top of Los Griegos near high road indicating high voltage wires below.

There are 6 lots available for sale at top of high road.

### **Legal**

No progress on the restrictive covenant letters.

### **Firewise**

The fire department has leys to open FR10 southbound.

Access off of High road is still unstable and needs more clearing.

Bladders for fire protection cost \$8000 ea and require \$300 of valves to setup for water withdrawal.

It will cost approximately \$300,000 to install two 25000 gal/tanks and may take up to 6 years to initiate.

For a better ISO rating the minimum is 30,000gals. reserve. It was stated that if the ISO rating is improved, it may drop insurance rates, but no guarantee.

Despite the forest reopening, the county hasn't lifted the burn ban.

Slash pit is open.

**Parks** – nothing

**Architectural** – two requests.

### **Old business**

Changes on the website design by the webmaster have been sent to the Board. Comment was made regarding the webmaster's takeover of the listserver. It was noted that if that occurs, any information posted would once again fall under Board approval.

A call has been put in to the county regarding the unauthorized Jersey bumpers on SLP land.

Another person has been added to the architectural committee

Comments on the water emergency plan have been received from the attorney.

No progress on the water system spare parts inventory.

No progress on the leak flags.

A new company, Integrity Mgmt is being explored to take over the mgmt of SLP. They will bill per hour until they are able to determine what services are needed.

No progress on rewriting the CCR's.

The culvert drainage issue on *Cerro Pelado* has been fixed.

There are no willing volunteers for the upcoming election. Ballot has to go out by the end of the month.

Proposed bylaw changes – see if committee has anything else.

### **New business**

Star asked how Bootzin's 22 lots in Unit 9 will affect the excessive water use policy. It was unknown whether Bootzin has withdrawn from SLP and his right to claim part of SLP's water rights. Kilburg will submit this question to the attorney.

Closed meeting started 9:44pm

ss/bv