

**MINUTES**  
**SIERRA LOS PINOS PROPERTY OWNERS' ASSOCIATION (SLPPOA)**  
**ANNUAL MEETING**  
**September 10, 2016**

1. **CALL TO ORDER:** The chair, President Stan Bennett called the annual meeting of the Sierra Los Pinos Property Owners' Association to order at 2:00 p.m. at the La Cueva Fire Station. He stated that in the absence of the secretary, Judy Kilburg would be the Pro-tem secretary.
2. **ROLL CALL:** (P-Present, E-excused, A-Absent without notification)

	P	A		P	A		P	A
Pres: S. Bennett	X		Secretary: Katie Ballmann		E	Legal: J. Brophy	X	
VP: P. Veverka	X		Treasurer: J. Kilburg	X		Water Compliance: J. Nyhan	X	
Firewise: E. Fredlund	X		Architectural and Parks: M. Otero	X		Roads: T. Vergamini		E

**GUESTS:**

Ms. Ann Cook was introduced as the Firewise Community President and the individual responsible for turning in the paperwork that oversees the Firewise Community. Ms. Cook stated that SLPPPOA has been designated as a Firewise Community since 2001. In order to keep our status we need to report what the members in the community have done during the past year. Activities that create a defensible space around your home such as attending firewise meetings, burning wood, chopping wood, removing fuel, clearing slash, etc. counts as \$23 per hour. If each person in the community spends just two hours doing firewise activities we would have enough hours to maintain our Firewise status.

Fire Chief Lee Taylor from the La Cueva Volunteer Fire Department (LCVFD) stated the LCVFD is very fortunate to have several active response members. Originally there were only four members but that has increased to twelve. It is good to have response available right next door. Chief Taylor said that we dodged the bullet this year. We've had several small fires close by but most were kept to no more than three acres. We have many resources in the area, i.e., the Parks Service, Forest Service and the LCVFD. He wanted to thank property owners that call and give a heads-up so that their resources don't respond in emergency mode to members that are just burning slash. Ms. Cook commented that hours burning slash counts towards Firewise hours. Chief Taylor also stated that if you burn a 3'x3'x3' or smaller fire such as a campfire, a permit is not needed but have a water source nearby. A permit will be required for larger fires. You may call the dispatch at Rio Rancho's non-emergency number, 800/898-2876 to obtain more burn information or to obtain permits. Additionally, Chief Taylor said he could be contacted at his direct cell phone number, 505/269-6435 or by email at [lacuevafire@windstream.net](mailto:lacuevafire@windstream.net).

A member asked how long a burn permit lasts. Chief Taylor responded that it varies. There are permits issued by the day, week or year.

Chief Taylor informed everyone that the Forest Service is planning a prescribed burn west of the Vallecitos area this fall and it will encompass approximately 240 acres. Fires typically go from northwest to southeast so the Forest Service is being proactive and burning the fuels in these areas in hopes of lessening the fire danger.

Mr. Jack Nyhan asked about the status of the water tanks for SLPPPOA. Chief Taylor answered that this is still a work in progress and it will likely be a few years down the road before we see them. Our fire district runs from mile marker 47 on State Rd. 4 to county road 126 to Seven Springs and toward

Soda Dam. The first two tanks will be at La Cueva Fire Station. Chief Taylor also mentioned that the two water tanks targeted for SLPPOA should lower our Insurance Services Office water rating which in turn will lower our insurance rates.

3. **READING & APPROVAL OF THE MINUTES:**

Mr. Bennett asked if anyone had corrections to last September's Annual Meeting Minutes dated September 12, 2015. Ms. Barbara Van Ruyckvelt said she just received the minutes and requested that she have time to review. Mr. Bennett said the vote will be postponed until the end of the reports so that everyone has an opportunity to read through the minutes.

4. **OFFICER REPORTS:**

a. **President** – Mr. Bennett stated we are going to do something a little different this year. We will count the ballots to verify we have a quorum. Mr. Bennett stated that Ms. Marsha Thole, a member of SLPPOA, was a parliamentarian and would provide advice for conducting the meeting. Mr. Bennett asked that members write down any questions which will be addressed after all reports given. He requested a short recess to ensure the ballots received met a quorum. Mr. Bennett reconvened the meeting and determined that not all ballots were in but a quorum was met with 57 ballots.

b. **Vice President** – No comment.

c. **Secretary** - Ms. Judy Kilburg provided the Secretary's report in Ms. Katie Ballmann's absence. Ms. Kilburg informed the members that home sales were steady in the fall and winter of this year. Welcome packages were sent to the following new members:

Mr. Stuedell, Mr. Gandia, the Johnsons Averys, Bratts, and Condit.

This year new owners are: The Martins, Lukes, Hines, Fleshers, Lovatos and Wearys.

Ms. Kilburg extended a warm welcome to all new neighbors and said it was great to see new faces.

Ms. Thole asked how much the HOA disclosure documents cost. Ms. Kilburg stated that the charge is \$150. Ms. Thole asked why so much and Ms. Kilburg informed her that it is a customary charge considering all the numerous documents and time that go into preparing the package.

d. **Treasurer** - Ms. Kilburg provided the following information:

Account Balances:

Operating Account: \$103,631.02

Reserve Account: \$82,975.12

Special Assessment Account: \$5,218.02

In April, the Board approved the transfer of \$35,000 from the Operating Account into the Reserve Account. This was NOT money designated from the 2016 Operating Budget, but was in fact some of the money that had been accumulated over many years of carry-over and was undesignated funds. Some years there is carry-over from a particular years' budgeted amount and other years there is not. In July, the Board approved the transfer of \$18,000 from the Reserve Account to the Operating Account to cover expenses for one section of water line replacement on System One. The current balances in these accounts reflect the movement of these funds.

The Special Assessment account balance is not extra money left over from the project, but is in fact money owed back to the operating account from money that was borrowed to cover the over-run. This bank account will eventually be closed out once we, hopefully, collect on some the past due uncollectable accounts.

### Delinquencies:

There is a total outstanding of \$17,766.20, of which \$4,326.00 is for the special assessment. Yes, this is a large amount, but \$16,087.55 is from three properties that are considered to be “uncollectable” because they are either in probate or foreclosure.

The largest past due account, \$8,547.54, has been in uncollectable/past due status since April, 2012. Keep in mind that when an account is this far past due, and with both the annual and special assessment, the monthly interest charged to the account is over \$100/month. The Association Attorney has been working this issues and formally notified me this past Thursday that we will not be able to collect on this account and it would be a permanent write-off. This will be presented at the monthly board meeting next week and then written off. We have been very successful in the past with collecting on these accounts, so it is unfortunate that this was not one of them.

Ms. Thole asked if monies are retrievable after the foreclosed property sells. Mr. Bennett responded that in this instance because of where we are in the overall hierarchy there is no hope of recovery of monies. Ms. Kilburg also reiterated that we have been very fortunate to collect in the past but it is not the case in this instance.

There are two other accounts in the “uncollectable” status, which will be reported on during the legal report.

There are six members who have a remaining balance on their annual assessment, which totals \$1,678.65. Two members owe late interest only and three are making payments. One member will be discussed further at the next board meeting.

This Board believes in preserving the privacy of our members and will not disclosure member payment or past due account names.

### Year-To-Date Expenditures

Our budget for this year is \$106,950. The annual assessment was lowered in 2012 from \$706.64 to \$690.00 and we’ve been able to keep it at that rate ever since. We’ve also been able to add money to our Reserve Account and cover the over-run from the three-year meter installation project, replace the first section of water line on System One, and cover the legal expenses incurred from the lawsuit.

To date, we have collected \$106,679.16 into our operating account, even with the past due accounts.

This is due to collection of previous years’ past due amount collected this year, interest collected on past due accounts, new membership fees, and collection of disclosure document preparation fees.

The Pie Chart in your hand out depicts a graphic presentation for each category and the spreadsheet shows the cost break-out by month. You’ve also been provided the Profit & Loss and Balance Sheets, which shows the details of our financial status.

Administrative \$1,147.49

Sec of State Corp \$10.00

Travel Mileage \$110.80

Taxes -822.89

Line Location \$133.33

Accounting \$4,329.69

Legal - General \$4,617.99

Legal - Lawsuit \$20,321.29

Lien Expense \$75.00

Insurance \$12,206.91

Parks \$0.

Water \$28,259.72

Electricity \$7,504.71

Roads \$1,593.75

Due to the lawsuit, which will be explained further under legal, our legal costs have greatly exceeded our budgeted amount and this continues to grow.

Our insurance went up from \$4,576/year to \$12,206.91. Mr. Brophy will cover this in his report. We continue to have quarterly financial reviews performed by Sunland Management Company, and they perform an additional financial review as part of the process for preparing our tax return. Earlier this year they started performing the monthly bank reconciliation. It was at the suggestion of Frank Casanova that they perform this task as it gives good separation of responsibilities from the treasurer and this is their practice for the other HOA's they manage. The decision had NOTHING to do with the lawsuit and was never discussed as part of the lawsuit.

We have been in discussion with HOAMCO, a very large HOA management company, for over two years. The board met with one of their representatives last year, but due to the lawsuit, they wouldn't take us on as a client at that time. After further discussions with one of the HOAMCO representatives and their director of client services, they stated that they would be willing to provide financial services for us. The Board voted to contract with them and they will begin taking over the books as of October 1, 2016. We believe the cost is reasonable at \$375.00 per month plus tax and fees. The fees include things such as postage, envelopes, document storage, etc. They will be sending the billing for your 2017 annual assessment and will also provide additional payment options that we were not able to provide. This board believes this is a good business decision. This will relieve a tremendous amount of work from a volunteer treasurer. HOAMCO will be following our Bylaws and the laws set forth in the HOA Act. I have verified with their director that documents provided to anyone requesting copies of financial records will receive only those documents as stated in the HOA Act.

#### 5. STANDING COMMITTEE REPORTS:

##### **Roads**

Mr. Vergamini was not able to attend. Mr. Peter Veverka stated that within the last week Mr. Chris Luster took them out to show the problem areas with which he is dealing. There is a 13k line exposed from underground and is an immediate hazard and we may need to close off that section of Los Griegos. Contractors will not run a tractor over it. Additionally, there are no materials on the sides of the road with which to work. There are serious problems with trees that are undercut and hanging over into the roads. There are life and safety issues in that ambulances and fire trucks cannot reach many properties due to the roads. We're looking at a major expense, and we don't have several million dollars. He suggested trying to get funding via grants. No more grading can be done. Re-engineering of the roads is needed. A new resident, Ms. Pam Tuttle is experienced and interested in road development has been in contact with a Jemez Mountain Electric Company (JMEC) board member and realizes it's difficult to get help from JMEC. Mr. Veverka stated that we need to put at least 24 inches of dirt on our roads but all we have is popcorn pumice and it washes away. Mr. Bennett added that he was contacted by Pete Meskimen and he's able to get asphalt millings, so we will be looking into that.

##### **Water Maintenance**

Mr. Veverka said it hasn't been a bad year. With the purchase of flow meter and the installation of household meters, now that they are all installed, and using the meter loop tests, gives us a greater ability to do diagnostics. We have accuracy to 1/10 of a gallon and can tell how many gallons are leaking. Based on current regulations and without full engineering studies we can only repair/replace 1000 feet of pipe every 60 days. New leaks went up, which needs to be located. We had a 4 gallon/minute leak and we replaced the first 1,000 feet of pipe. This reduced the leak to 3½ gallon/minute. With the repairs, we could be gaining 9 gpm for System 1. The next 1,000 foot repair has to occur by the end of September. This should save not only water but also electric costs, wear and tear on the pumps, etc.

Mr. Shawn Weary made the comment that this is a GREAT fix and with newer materials, and it's not a bandage. We did the most we could with the least amount of damage.

Mr. Veverka stated he was disappointed with the helium company that didn't provide any useful results.

Last February a leak was identified in the tank. They did a meter run and notified the owner and fixed the leak. They were able to identify the location and shut the water off within two hours.

In March a booster station was overflowing. It was quickly identified and JMEC ran a 2<sup>nd</sup> line. In April the Aspen well pump died. It was replaced with the help of many volunteers that hand-dug the hole and a new pump was replaced. So far the pump is working well.

In May, we got a new flow meter thanks to Mr. Mark Stanley. The meter has been instrumental in helping to identify leaks in our community. Leaks were identified on Trilobite, Hovenweep, Bonito and Mesa Verde, but the rest is tight.

### **Firewise**

Ms. Eleni Fredlund said about nine months ago she informed the association via email that a thinning project with a short turnaround was available. Interested members were asked to provide information. Six people provided the required paperwork. The waiting list is about one year. There's a lot involved in determining the appropriate thinning. It's not just number of stems on the property, it's the types of trees, health of trees, space between the trees, size of the trees, etc. Could possibly get 50% assistance. It's a US Dept. of Agriculture grant, so it may not be 50%, it could be whatever they decide. Ms. Fredlund said there is more detailed information in the handout.

Ms. Barbara asked what about the covenants that dictate the number of stems? Mr. Bennett responded that the covenants do not take into consideration the drought conditions that we have recently faced.

Ms. Cooke stated that she spoke to Jill about the 400 stems. It is a Forest Service requirement but there is no authority or standard for private property. 400 stems could also be little tiny size.

Ms. Fredlund reported that the Forest Service is planning a 2,000 acre burn on Virgin Mesa, 300 acres near Cuba, and 300 acres on Vallecitos.

### **Water Installation Project**

Mr. Veverka stated there was continuous trouble with the Level Con 2 which Mr. Harold Corn has been working.

Mr. Corn passed around a sample of the pipe that is being used for the installation repair. He spoke about the new meters which allows us to quantify where our water is going – homeowner vs. mainline. Now we can accomplish water audits. The Water Committee started on System 1, the oldest which is approximately 43 years old. Units 1, 2, 3 and 10 are on System 1. Mr. Veverka leads the Committee. They need to establish medium to long-range plans, perform diagnostic tests with the ultrasonic flow meter to determine the areas with the worst leaks. State regulations dictate that we can replace 1,000 feet of water every 60 days. On May 25th they ran tests. On August 31, the first section was repaired and they are gearing up for the next 1,000 feet which is tentatively scheduled for September 26th. This section is at Hovenweep and Aztec and has nine homeowner tie-ins, so there will be more disruptions.

Mr. Bennett gave kudos to Jeff and Mary Moore for allowing the piping to go through their property to avoid a 90-degree turn.

Mr. Mark Stanley provided a handout and showed the ultrasonic flow meter and explained how it works. He mentioned that we have the lowest leakage rate in many years. Diagnostics show that

there is a leak in the valley somewhere. There was one meter they thought was not working but it was installed backwards. It was corrected.

### **Water Compliance**

Mr. Jack Nyhan provided a handout entitled, "A Plan for Our Future SLPPOA Drinking Water System", which details the changes from the 1970s and what we are dealing with today and an overview of funding sources. This is the first Board that actually started replacing water lines. In the 70's we had about 12 homes. Now we have approximately 150. We still have two to three volunteers taking care of our drinking water system. Mr. Nyhan looked at the Drinking Water Bureau website and researched communities with 25 or more connections and then what type each one was. He found that 80% of the mutual domestics were formed with less than 100 connections. He recommends establishing a Mutual Domestic Water Consumers Association (MDWCA) which would allow us to apply for grants. Mr. Bennett stated that grants would be the way to go; however, it is a very long process and the members will need to be educated on this action, i.e., Will we need to give up our water rights?

Ms. Marsha Thole recommended contacting the University of New Mexico who could possibly assign this action as a student project for credit. Mr. Nyhan said that he contacted the UNM Community Relations but did not contact the specific area of study which may be a more direct avenue.

Mr. Shawn Weary stated the MDWCA would undoubtedly cost a lot more money, would require a dedicated Water Operator and would be much more scrutinized by the State.

### **IT Web Page**

Mr. Bennett said that Mr. Mike Schacht is still our web page manager. Eventually we will need to obtain a web designer but for now Mr. Schacht has done an excellent job.

### **Legal**

Mr. Joe Brophy provided the following status:

#### Delinquencies/Collections

After the October 2015 monthly Board meeting when I was elected by the Board to serve as the Legal Chair Representative I worked to collect delinquent payments for both the annual dues as well as the unpaid third and final year meter can assessment fees. The Board unanimously agreed that our preferred method to collect overdue payments would be to pursue legal actions through our attorney rather than shutting off water services. This Board recognizes that shutting off water has risk and the task could place our few volunteers at risk without having assurance of law enforcement presence. The decision to use this method is fully compliant with the bylaws. The Board also unanimously agreed that our methods to collect delinquent payments would be performed while preserving personal identifiable information (PII) associated with the delinquent parties, a method also in full compliance with the bylaws. In addition, the Board personally contacted several delinquent parties which helped to expedite collections and mitigated legal expenses, however, in all cases, all late fees, lien fees and attorney fees were added to the amounts due on the delinquent totals and collected in full. This Board has had tremendous success in our collection efforts and our rate of collection greatly exceeds both national and state collection statistics. To date, we have three special cases, that combined, account for 91% of our total delinquent amounts due. Of those three, one has been recently determined by our attorney to be uncollectable. It is a death issue. Another of the three will now need Board approval to file for collection through our attorney. The third party has a recent court judgement rendered for payment but our likelihood to collect is very low according to our attorney.

#### Insurance

Mr. Brophy stated that our new insurance policy is in place. Our previous provider, Philadelphia, declined to renew our policy due to our loss frequency and severity as a result of two claims with a

loss ratio of 405.43%. This was due to the amount they paid for the flood damage on one residence in February of last year. The other claim for the legal costs resulting from the suit brought against the Board by three association members was denied. We only received one quote for renewal. Travelers is covering the Directors and Officers policy and Mesa Direct Underwriters is covering the General Liability and Property policy. Our loss ratio will remain on our record for three to five years and resulted in our current coverage to be costing \$12,206.91, up from \$4,700 last year. If we can find other insurance companies who will cover us at a reduced rate, we can cancel the Travelers policy and/or the Underwriters policy with a penalty. Overall our current policies, like the Philadelphia policy we had last year, are much better policies than the coverage we had prior with Glatfelter which had no D&O (exclusions essentially negated any potential coverage for us), no playground, no liability – only four pieces of property with a maximum \$23K payout for property loss as opposed to over \$500K maximum payout now for property loss.

Mr. Bennett said lesson learned, we should have filed an insurance claim when the Concerned Members (CMs) lawsuit was first filed as required by the bylaws. It was difficult to find a new policy due to the CM lawsuit and too many liens.

### Lawsuit

The cost of the lawsuit at the Sept 2015 Annual Meeting was \$6,783.66. At the time the Board was confident that our financial records, reports and methods of accounting were fully compliant with our bylaws and with the Home Owners Act. As such, the Board was confident that the lawsuit would be resolved. A mediation meeting was conducted on the case and lasted a full day. It ended in deadlock between the defendants (the Board) and the plaintiffs (the CMs) because the plaintiffs continued to demand financial information containing PII which the Board refused. The decision to refuse disclosure of PII was supported by our attorney. Subsequently the plaintiffs were allowed to amend their complaint citing new claims against the Board. Realizing that a settlement was not possible with the plaintiffs, the Board agreed to file a claim with our insurance company for the lawsuit costs. The insurance company denied the claim, largely due to the delay in reporting the claim. However, soon after, our policy was denied renewal anyway due to our loss rate as determined by our insurance carrier. After two scheduling delays the trial took place on the lawsuit and lasted two full days. The trial covered our financial reports and methods in great detail as well as the duties and powers of the Board, confirmation that our bylaws stand as the primary document and the new Home Owner Act does not invalidate the bylaws. The trial also covered availability of records inspections, collection methods, audit/review/compilation of financial activity, executive sessions and defendant, plaintiff damages noting that the plaintiffs had none. The judge filed his Findings of Fact (FoF) and Conclusion of Law (CoL) on July 26, 2016. None of the plaintiffs' claims against the Board were supported by substantial evidence as required by law. The judge was straightforward and to the point on his FoF against the plaintiffs and the judge included restriction of information and financial and other records, audit/review/compilation being interchangeable when defining terms within the bylaws, granting defendants the right to withhold PII noting that the plaintiffs cannot replace changing the policy of the Association set by the Board with requests for court intervention. So, the defendants were completely exonerated of all charges by the plaintiffs who failed to prove their charges against the Board lawfully, however, because our bylaws do not call for award of attorney fees except for collection processes, the court denied attorney fees. Within their right to contest the judge's verdict the plaintiffs have submitted a request to contest the verdict. A ten-minute hearing on the matter is now scheduled for December 12, 2016. The legal costs for the lawsuit to date is \$30,783.23. Additional attorney fees will accrue to the December timeframe at a minimum but the Board will seek damages on the appeals legal charges brought on by the plaintiffs. In the meantime, any and all claims made by the plaintiffs against the Board with ties to the case matter in any way, both verbally or by mailing after July 26, 2016 are baseless, malicious, unsubstantiated and frivolous.

### Reserve Study

A 2009 audit finding indicated that we should have a Reserve Study. This finding was reiterated in the 2012-2014 audit. A reserve fund has to have a reserve study to justify the tax status of that fund.

The Reserve Study engineers are in the process of performing the study and it is expected to be completed this year.

Ms. Marsha Thole asked how we pay attorney fees, by the hour or by the project. Ms. Kilburg stated that the attorney is paid by the hour. Mr. Bennett said that the \$30,000 in legal fees was all for the lawsuit.

Ms. Thole also asked if our attorney was an HOA attorney. Ms. Kilburg said yes. Approximately twenty percent of his clientele are HOA clients.

Mr. Shawn Weary spoke and said it appeared that the CM lawsuit was nothing more than a personal vendetta that affects our HOA monies. The judge has made his ruling and it should stop there. The judge stated that there is no validity to their claim and to him it looks like harassment. It's not right to bring the members into this and cost everyone money. He wondered if the outside members could get together and file a lawsuit against the CMs.

#### Concerned Members History against SLPPOA

Mr. Jack Nyhan started his presentation however, Ms. VanRuyckvelt threatened to file a lawsuit for slander if Mr. Nyhan continued with the presentation. Mr. Bennett requested that the presentation be tabled for later or possibly posted on the website as not all Board members were familiar with all the content.

A motion was made to dispense with reading of the presentation and possibly have a town hall meeting at a later date where both sides could present their positions to the members. The motion was seconded. The motion passed unanimously.

#### **Parks/Architectural Changes**

Mr. Max Otero stated that there have been approximately sixteen inquiries regarding architectural changes. Thirteen approvals have been issued. He asked for members help by informing him if they see questionable building, i.e., fencing too close to the roads, etc. so that he can inform the member before they incur additional costs.

Marsha Thole asked if there are any safety or security issues in our area. She said Thompson Ridge has had many. Ms. Kilburg said she hasn't heard of break-ins in our neighborhood.

#### 6. SPECIAL COMMITTEE REPORTS: NA

#### 7. UNFINISHED BUSINESS:

Mr. Bennett referred back to the 2015 Annual Meeting Minutes and asked if there was any questions now that members have had a chance to review. A motion was made to approve the September 9, 2015 meeting minutes. The motion was seconded. The motion passed unanimously.

Marsha Thole asked if a quorum was met. Mr. Bennett stated that by ballots a quorum was met but not by membership attendance.

#### 8. NEW BUSINESS:

##### a. Appreciation Awards

Mr. Bennett thanked all the volunteers that have volunteered a tremendous amount of time this past year. He handed out gift cards to the following volunteers:

Harold Corn  
Brad Shurter  
Mike Schacht



Jan Studebaker  
Mark Stanley  
Rich Kilburg  
Shawn Weary  
Tom Lyttle  
John Fredlund  
Paul Martinez  
Lorraine Otero  
Dave Schmitt  
Paul Lisko

**b. Candidates**

Mr. Bennett stated there are three, three-year positions, and one, one-year position that need to be filled. Harold Corn (76 votes), John Fredlund (46 votes), Judy Kilburg (64 votes) and Lorraine Otero (46 votes) were elected to the Board. The two that tied will have to decide who will take the 3-year and 1-year terms. The ballots will be retained for 120 days.

Three non-Board members were requested to tally the ballots. The individuals were Sandy Partridge, Tamara Weary and Cindy Hines.

**c. Announce Ballot Results**

Mr. Bennett stated there are three, three-year positions, and one, one-year position that need to be filled. Harold Corn (76 votes), John Fredlund (46 votes), Judy Kilburg (64 votes) and Lorraine Otero (46 votes) were elected to the Board. The two that tied will have to decide who will take the 3-year and 1-year terms. The ballots will be retained for 120 days.

9. ACTION ITEMS: NA

10. ANNOUNCEMENTS: NA

11. NEXT ANNUAL MEETING: September 2017

12. ADJOURNMENT at 5:15 p.m.

Submitted by: Lorraine Otero, Secretary