

SOL y LOMAS HOME OWNERS MEETING
United Church of Santa Fe
March 8, 2014

PRESENT

Trustees: Douglas Maahs, acting President; Jackie Dulle, secretary; Judy Montano treasurer; Lynn Day and Susan Orth

Guests: Tom Spray, Chairman of the Planning Commission
Matt O'Reilly, City Land Use Director

Residents: Jack Huberman & Nina Dougherty; Sharon & David Tolleson; Bob Thornburg & Dannie Roark; Susan Orth; Robert Glick & Jacquelyn Helin; John Gibbs; Jon & Rosemary Wallace; Rebecca Welling; Molly Archibeque; Blanca Surgeon

Douglas opened the meeting at 1:05 p.m. and gave a brief summary. There are five separate voting units within SolyLomas that have covenants. Units 1 and 2 have covenants that will expire on June 22, 2014. Units 3 ,4, 5 and 6 have covenants that will expire on June 22 in the successive years of 2015, 2016, 2017 and 2018 respectively. A covenant committee had worked for a year on revising the current covenants for Units 1 and 2 which were put to a vote by the residents of those Units. They were not passed by the required 75% of the residents, although the majority of those who did vote were in favor of the revised covenants. Approximately 19 home owners did not vote.

It had been suggested at the annual meeting in January that if the covenants expired, without renewal, the Home Owners Association would also expire. But Douglas reported that is not the case. The Corporation By Laws, that govern all six of the SolyLomas units, do not expire and so the HOA will remain. Douglas spoke briefly about the New Home Owners Act, SB497 and the requirements the new law puts on HOAs.

Tom Spray reported on his experience of having covenants and suggested they add value to one's home and community.

Jack Huberman stated that the new Home Owners Act was the major issue for him and that an HOA under the Act is required to put liens on homes for non-payment of HOA dues. (Douglas later clarified that statutory liens are automatic and nothing requires an HOA to enforce such liens.) Jack reported he had called Sen. Peter Wirth to find out what would happen if the HOA does not register as of July 1, as is required by the new Act, and was informed there is a lot of dissatisfaction with the Act, suggesting it could be modified. Jack stated he is in favor of having covenants but thought the proposed revised covenants needed more work and that he would be happy to work on them.

Douglas reported that HOAs not registering by July 1 would lose certain abilities and he believes that the trustees have no option, sans a blocking consensus from the membership, but to file the Association Declarations by July 1 with the State.

Nina Dougherty said she thought there were good reasons not to register the HOA under the State law and she believes the neighborhood functions very well.

Matt O'Reilly, 4½ years as the Director of the Land Use office, stated it is possible for communities to have covenants without an HOA. He reported that many HOAs are defunct and yet there are covenants existing in those communities. He did point out, however, that the

City cannot enforce covenants and that would be up to the home owners to do so, if there were no functioning HOA. Matt said he knew there was dissatisfaction with the new Home Owners Act, but that he wouldn't count on any changes being made – the Legislature moves slowly on issues. Matt did report that the City gets hundreds of complaints and if they are within the purview of the City, 90% of them are resolved within 30 days. And he continued that the City has never lost a case that went to Court. He suggested communities not having problems may not need covenants, but if communities do have covenants it is important to have an active HOA to enforce them.

Tom Spray agreed that the new Home Owners Act may or may not get changed but he spoke in favor of registering the HOA to comply with the new Act. If not, problems fall back on the community and he suggested the community needs to be forward-looking. He suggested that the HOA Board and the residents need to have a shared set of values and that the regulations need to be applied with loving authority. He also suggested checking with the HOA's legal counsel on the pros and cons of registering under the new Act.

Matt O'Reilly told about the procedures the City has in place to handle complaints. He stated the City is not interested in being punitive but informative. A first step is to contact a complainant verbally and then send a notice of violation, and if still no response, then to take action. He suggested a similar process should be part of the revised covenants, so all the residents will know what to expect for violations. He stated this depersonalizes the situation.

Douglas reported that the SolyLomas HOA had been fairly casual over the past 50 years, with some periods of low-paying dues. He became President of the HOA five years ago and his belief is you can't run an organization without having accountability. At the annual meeting in January, a budget for 2014 was proposed and passed, as is required by the new Act. He stated this would provide the means for running the HOA like a business. Douglas stated that \$2,500 had been allocated in the budget to provide the resources to meet the requirements of the new Act so that an independent individual could work for the HOA and manage the collection of dues and the filing of the corporate paperwork.

Bob Thornburg said he is not opposed to having covenants. However, he suggested they need to be re-worked and that the new HOA Act is his problem. He recently had to sign on some rental property and he became aware that in the future in such transactions disclosure of any legal proceedings happening in the area will have to be disclosed and he is of the opinion this could hurt transacting the business. It was pointed out, however, that the statutory liens that would result from non-payment of dues are automatic and they do not constitute a legal action by the HOA. Only if the HOA took legal recourse to enforce the lien would a lien be made known.

A statement was made about the inability of some fixed-income residents to pay the increased annual dues of \$50. Douglas clarified that there will be a process for hardship cases in the revised covenants.

Blanca Surgeon reported on her experience with handling residential water matters. She claimed that about only 6% of residents respond to meetings and correspondence and so they have adopted a system whereby they request residents to sign and send back paperwork or come to meetings if they don't agree. If the residents are OK with whatever is being proposed they do nothing.

Robert Glick stated he supported having covenants and believe they have preserved the SolyLomas neighborhood.

Matt O'Reilly confirmed that the zoning for SolyLomas is R-1, and without covenant restrictions, the acre lots could be divided.

Jack Huberman stated he felt uncomfortable with having the HOA run as a business. If the neighborhood suffered a little bit, he thought that better than having to go through all the hoops of the new Act. He said he is opposed to the HOA registering under the State law. However, he did continue that it is important to have covenants and he hopes there is a middle road.

Nina Dougherty reported there is no State agency overlooking the registrations of HOAs. She suggested finding out exactly what rights the HOA would lose were the HOA not registered under the State law.

Dannie Roark stated she felt an undercurrent of battle present at this meeting among the attendees. She emphasized what a beautiful neighborhood SolyLomas is and she hoped revised covenants would be passed in time.

Douglas stated the two main issues before the HOA are:

the expiration of the covenants for Units 1 & 2 on June 22, 2014, with six months thereafter allowed for voting in revised covenants; and

the registration of the HOA under the new State law by July 1 and hiring an individual to manage the collection of dues.

Robert Thornburg offered to put HOA information on the Next Door Neighbors web site. Douglas responded the word needs to be publicized in way possible.

Rebecca Welling asked about seeing the records of the HOA and Douglas stated any member of the HOA is permitted to review the records in the office of the HOA, which is located in Douglas' office.

Jack Huberman recommended seeking legal counsel from an outside attorney, John Paterson, of Rodey, Dickason, Sloan, Akin & Robb, in addition to our regular attorney who lives within SolyLomas.

Judy Montano asked about having an e-mail blast sent out to the membership regarding the next two meetings on Thursday, March 13 at 5 p.m. and Saturday, March 15 at 10 a.m., both to be held at the United Church of Santa Fe. She also asked if Matt O'Reilly and Tom Spray could attend those meetings as well as our legal counsel, Melanie MacGillivray.

Matt O'Reilly commended the HOA on its laudable work.

Meeting adjourned at 2:45 p.m.
Submitted by Jackie Dulle