

SOL y LOMAS HOME OWNERS MEETING
United Church of Santa Fe
March 13, 2014

PRESENT

Trustees: Douglas Maahs, acting President; Joseph Kraus, vice-president; Jackie Dulle, secretary; Judy Montano, treasurer; Lynn Day, David Dodge, Dan Lenihan, and Susan Orth

Residents: Molly Archibeque, Mark Kaune, Marv Godner, Rollin Whitman, Bob Thornburg, Gary and Mary Kilpatrick, Rebecca Welling, Kim Udall, Byron Goldstein, Jack Huberman and Nina Dougherty, Phyllis Weiland, Casey Clendenin and Susan McKee

Douglas opened the meeting at 5 p.m. He stated the purpose of this meeting, as well as the previously held one and the third and last one on Saturday, March 15, was to discuss two main issues: covenant renewal and the new State Home Owners Act. The goal of the Board had been to develop a set of covenants for Units 1 & 2, because theirs expire on June 22, 2014, that would also be acceptable to the other units, whose covenants expire in successive years. However, the vote tally of Units 1 and 2 residents showed that more than 25% voted against the proposed covenants and they needed to pass by a 75% vote. Douglas states that the current agenda is to find out what needs to be in the covenants in order for them to pass. One of the biggest concerns of the new HOA Act is that it mandates statutory liens on home owners who do not pay their annual HOA dues. He emphasized that these liens would not become public information unless the HOA decides to prosecute them. The only action that would likely happen would be the amount of unpaid HOA dues would be deducted from the seller's money received at the closing on the sale of that home. A key date is July 1 when the HOA must file papers with the State to register as a HOA. Douglas has been told if an HOA does not file by July 1, the HOA could lose some rights, perhaps even the right to file; however, since the law is so new, there are some questions.

David Dodge simplified the matter – do the home owners want covenants and if yes, how do we enforce them, or do we? He suggested maybe having no HOA; however, if that happens, enforcement of the covenants falls upon the home owners.

Lynn Day spoke in favor of covenants to keep the neighborhood in a good condition. She emphasized that with no covenants or HOA, home owners are left to their own resources to deal with neighborhood problems.

Susan McKee also spoke in favor of covenants, which she believes keep this neighborhood neater and maintain property values. Her opinion is the fear of liens being placed on homes is unsubstantiated.

Bob Thornburg asked for clarification on what statutory means. Susan Orth stated it means “the law” but that no action is taken. Douglas continued that it would appear on the closing documents at the time of a house sale, but it would not be filed or actuated, unless the Board saw reason to do so, which he considered very unlikely. Joseph Kraus did say, however, that if a lien were filed, it would be a serious matter. A statutory lien is not in the public domain.

Douglas reported that the new HOA Act requires a recorded budget. In the past, the HOA budget balance has varied from \$800 to \$5,000 - \$7,000 and that would not assure sufficient funds to fulfill the requirements of the new HOA Act. So in the newly adopted budget for 2014 there is an allotment of \$2,500 to meet those needs.

Marvin Godner stated that the home owners living in Sol y Lomas had joined the HOA willingly when they purchased a home here. He believes there are benefits to having an HOA and its covenants which helps maintain reasonable relationships with neighbors.

Some points Douglas made included:

The HOA has spent \$5,000 on legal fees in the process of revising the covenants.

The trustees believe in solid covenants and their enforcement; however, the Board is not trying to jam anything down the home owners' throats.

Any violation in the past would be grandfathered in with the approval of the new covenants. If the HOA has not acted within 45 days, it is history.

If some Units voted against having covenants, they would remain members of the HOA with voting power, but with no architectural review or enforcement.

Judy Montano asked about the Board of trustees' insurance. It is purchased to protect the trustees in the event of a lawsuit against the HOA. Joseph Kraus reported that the HOA in Florida where Trayvon Martin was killed was sued for 10.2 million dollars.

Lynn Day expressed concern about the lot at the corner of Colibri and Ridgeway that is looking like a junkyard.

Bob Thornburg is concerned about the possibility of having special assessments levied on home owners by the HOA in order to fight a major violation. Douglas replied the HOA could choose not to fight such an issue.

Nina Dougherty spoke to the fact that the HOA Act is brand new and is totally untried. She believes it is imposing a lot of responsibilities on HOAs that register. In addition, there is no one overseeing the Act. Jack Huberman said Sen. Peter Wirth reported it is very likely the new Act will be reopened at the legislative session next year. Rollin Whitman recommended those residents interested can view the NM HOA Act on You Tube in an 8 minute video. Also the 18-page Act can be downloaded.

Gary Kilpatrick stated if there are no covenants, home owners would have to fall back on the City regulations and would lose their first line of defense.

Douglas and David both stated we need to find out what home owners want or don't want in the covenants, and Douglas suggested there be door-to-door canvassing. Use of the HOA web site was suggested by Bob Thornburg; however, Douglas states 20% of the home owners seem unwilling or unable to participate on the web. Douglas reminded all that there is a comment section on the HOA web site: www.solylomashoa.org Rollin Whitman and Casey Clendenin volunteered to help with the door-to-door canvassing. It was suggested that all the residents need to be contacted because it was thought some of the yes votes were marginal.

In response to a question from Judy Montano as to what happens if the HOA does not file, Douglas reported the HOA's legal counsel suggests the HOA would still be liable under the law.

Joseph Kraus' opinion is the new HOA Act has simplified the HOA activities.

Rebecca Welling stated that three or four residents want to have chickens.

There seemed to be consensus that all these comments/suggestions need to be taken back to a Covenant Committee.

Casey Clendenin stated her opinion that there has been enforcement of the covenants in regards to architectural review. Susan McKee confirmed that, by reporting a balcony and a strawberry color stucco she had requested were both turned down by the Architectural Review Committee.

In response to suggestions from Jack Huberman regarding good and appropriate contact with home owners, Douglas stated they have been tried.

Bob Thornburg expressed concern about neighbors who do not pay their HOA dues and how that will impact his property.

Douglas reported on the number of home owners not paying dues:

2010 – 52 home owners

2011 - 32 home owners

2012 - 48 home owners

2013 – 52 home owners

but concluded that only 19 have never paid dues.

Dan Lenihan made the statement that he believes we will be increasing the litigious nature of our neighborhood without an HOA because the HOA supports its residents and they are not left to their own devices.

Jack Huberman stated he has lived in SolyLomas for 30 years and things have been working very well. He has served on the HOA Board and knows what is involved. But implementing some of the proposals in the revised covenants would lead to having unkind and angry neighbors, he suggested, and make it a litigious neighborhood. He believes covenants are important but that the currently proposed covenants need reworking. While he stated it is important to have an HOA Board, he doesn't trust Boards.

Douglas said he understood this fear, but he does not believe we can have accountability without enforcement of the covenants. Dan Lenihan emphasized that the HOA needs the authority to act.

Casey Clendenin stated she believes a mistake was made in the order of events regarding the revised covenants - that the three meetings for discussion should have been held prior to the vote. Douglas readily agreed.

A request by Rebecca Welling for notification of the next Trustee meeting was made.

Meeting adjourned at 6:45 p.m.

Submitted by Jackie Dulle, Secretary