

SOTHA Board Meeting February 5, 2005  
Notes transcribed from recording.

Michael Vernon called the meeting to order at 7:15 PM

Board members present:

Michael Vernon;  
Hawley Smith (by phone);  
Joy Hartman;  
Kevin Michelson;  
Stewart Holmes;  
Eric Hansen;  
Sallie Shatz. (8:15PM arrival)

Association members present:

Sandy Holmes;  
Margaret Walker;  
Buddy Meyers;  
Larry Leonaitis;  
Katie Leonaitis;  
Rick Cote.

### **Quorum**

Michael declared that a quorum was present and proceeded with the meeting.

Michael asked Tom to record the Minutes of this meeting. Tom agreed and announced that the meeting was being digitally recorded for accurate transcription of the Minutes. Tom also certified that the meeting notice had been sent to all Board Members and Association members on 1/11/08, and the meeting notice was also posted on the web site.

### **Minutes**

Minutes of the prior Board meeting held on 9/25/07 had been posted on the web site.

A motion was unanimously adopted to approve the Minutes as posted.

### **Notification to Association Members of Board Meetings**

A question was posed about notifying members of Board meeting notice. Following is a clipping from the 9/25/07 Board Meeting Minutes:

**Upon Motion unanimously rejected by the Board, there will not be any commitment by the Board to notify Association Members of Board meetings.**

However, as a matter of information only, when a Board Meeting is called, in addition to posting the date on the web site, Association Members will be additionally notified by a copy of the email notice sent to Board Members.

Michael commented that the Board decided to send a courtesy notice only to the Association members.

### **Tillman Activity Envelope Application**

Tom reported that based on the recommendation from our Board, the Snowmass Capital Creek Caucus adopted a motion to suggest to Pitkin County that the application be approved. Because a few residents made their opposition known to the Caucus, their approval recommendation was withdrawn. During January, 2008, Pitkin County held an administrative hearing allowing input from the community. The hearing officer approved the application incorporating Tillman's stipulation to limit the house size to 4,500 sq. ft. contingent upon there being no appeal by any interested party. Subsequently, an appeal was filed by Stonywood Trust. An appeal hearing date has not yet been set although is expected to occur during May, 2008.

Michael reported that the Board, upon hearing a presentation from Tom Newland, Tillman's Land Planner, felt the application was within Tillman's rights as a parcel owner and the Association has an obligation to support its member's right to develop their parcel as long as it complies with the County standards and is not contrary to any Association Rules. Michael also mentioned that the Activity Envelope is only part of the development application; a Site Plan Review must also occur that is very similar to the prior "1041" process where house size, setbacks, etc., are considered.

Larry Leonaitis and Sandy Holmes related they felt that the Board should have remained neutral on the issue.

### **Shield-O Terraces / Shield-O Mesa Agreement and Letter**

Last year when we were unifying the Association by proposing an agreement with Mesa regarding Old Pond Way Residents, Mesa alleged that SOT did not keep it prior agreement. Mesa alleged that we were obligated to pay them any overages (collected assessments vs expenditures) for the County required Capital Assessments. The audit that Kevin just completed confirms that there were no overages although SOT *had* sent \$16,000.00 to Mesa in this project. Kevin reported the following audit results:

\$73,116.68 collected;  
\$82,123.78 spent;  
\$16,000 had been sent to Mesa.  
\$13,000 remains to be collected. (Bradtke, Stonywood, Johnson)

Tom reported that a response letter was already circulated to the Board for approval.

**Nancy White also sent a 4-point letter for the Board to review.**

1. Skipped because it was not Board business.

2. Increase in payment for Old Pond Way residents:

Tom related that SOT and SOM struck an agreement in 2007 for which full payment was made to Mesa for OPW resident's use of Mesa Road. It was also agreed that Mesa's assessment for 2007 had already occurred so the agreement applied to 2008. Tom believes it is inappropriate for Mesa to attempt to re-write that agreement which had already been consummated and recorded in Pitkin County records.

A motion was unanimously passed to pay Mesa the difference of \$735.00 between the \$1,540 we paid last year and their current request \$2,275.

3. Coty, Goldsmith/Schneider, and Smith.

After much discussion, the Board proposed to offer a trade to Mesa to allow Coty's use of Mesa Road for Smith's use of Shield-O Road. The Board declined to give further consideration to the Schneider/Goldsmith portion of Mesa's letter. The Schneider/Goldsmith property is located within SOT, on an SOT roadway – Shield-O Road, that they have full access thereto and full right to use as a member. The use of Mesa Road by Schneider/Goldsmith is by their personal choice and not business of the Association or the Board.

4. Shield-O Terraces Capital Assessment Audit  
Addressed above.

Michael asked Tom to draft a response letter to Nancy White, President of the Mesa Road Association, covering these topics.

### **Lawsuit Report**

Johnson.

During 2006, a lawsuit was filed against Johnson for never paying dues. Upon filing the suit, we learned that there is a suit from the former owner, Rosemary Dwight, against current owner, Susan Johnson. Our lawsuit has been subordinated to that action. There are many complications with the Johnson parcel including being red-tagged for illegal subdivision. We have a lien on the property.

Bradtke.

We have a court sanctioned agreement with Bradtke to make payments.

### Stonywood.

We have dismissed this lawsuit and have entered a stipulation agreement that the obligation does not become “ripe” until there is a development application. We have averted any claim that the assessment is not collectable due to the 6-year statute of limitations. If Stonywood is required to use Shield-O Road, the Capital Assessment plus interest becomes due.

Michael asked Kevin to show Stonywood and Johnson receivables each as a contingent receivable in SOT records.

Buddy Meyers reported that there was a propane leak at his house and the fire company was called. Firemen noticed that Old Pond Way beyond Buddy’s residence was closed with snow and indicated they would report this to the fire marshall. Michael acknowledged that we are obligated to keep OPW open although due to the extreme snow conditions it’s nearly impossible to keep remote portions open. Eric reported that Victor (First Choice) has already ordered a rental skid-steer (Bobcat Type) with a front loader to open the roadways including OPW.

Sandy mentioned the abandoned blue jeep on Shield-O road. Joy volunteered to call Dana Pingatore, owner of the Jeep, to have it removed.

Eric reported the severe difficulties of snow push-back. He requested that homeowners mark rocks with stakes or rebar to help avoid damage during pushback. Eric also reported on a terroristic threat by a homeowner against Victor, our snow-plower. Tom reported the same homeowner had threatened him last year for sending an email.

### **Frei Request**

The Frie lot was changed back to Dr. Lauricella’s name on 10/23/07, to be effective 1/1/07. Frei requested that the current dues, \$884.37. This includes \$150.00 for 2006 assessment that was not paid.

Upon motion, the Board unanimously resolved to accept the Frei request letter to abate the Frei receivable of \$884.00.

Upon motion, the Board unanimously resolved to reject the Frei request letter to refund \$1,100 prior paid dues.

Michael asked Tom to respond to Frei on both issues.

### **Financial Report**

Kevin presented and reviewed Association financial statements including an arrearage report.

Upon motion unanimously adopted by the Board, the financial reports were approved by the Board.

Michael confirmed that Tom should post the financial report including the arrearage report to the web site.

### **Arrearages**

Upon motion unanimously adopted by the Board, Tom was authorized to communicate with members in arrears and to take any reasonable action to collect arrearages that exceeded 90 days.

### **Water Rights & Elk Creek Ditch #2**

There is a concern among Association members over the diminishing performance and marginal production of individual water wells. Consultation with the Colorado Division of Water Resources resulted in a suggestion to re-open the ditch to flow water for irrigation and replenishment of our aquifer.

At a prior meeting, the Board authorized contact with Beach Environmental to inquire about water rights to operate Elk Creek Ditch #2 that runs through SOT. Michael Kiernan from Beach, along with “Caleb” from ECOS, walked the ditch with Hawley, Michael V, Stewart, and Joy. This resulted in a proposal from ECOS to refurbish the ditch including replacing or placing piping at an estimated cost of \$120,000 up to the Harvey Ranch where the most recent source was flowed from the (upper) Elk Creek Ditch. It could cost as much as \$200k to refurbish the ditch back to the head-gate on the Elk River.

Michael V was able to obtain very useful historical information from Randy Christensen which we will use to follow up for water rights. Tom has agreed to perform the initial research to determine if any nearby parcel owner has water rights for the Elk Creek Ditch #2.

Michael pointed out that it may be premature to make any decision on this project until we determine who owns the water rights, what will it take to cause it to flow, and what benefit will be accrued from the effort.

Hawley believes we should now proceed to find out who owns the water rights and if they are receptive to selling or assigning rights to us.

Tom mentioned that Beach Environmental sent a proposal to do additional research for us. He suggested that we put Beach on hold while we do some research ourselves. Michael asked Tom to draft a response letter to Beach.

There being no further business to come before the meeting,

Upon motion unanimously adopted, the meeting was adjourned at 9:55 PM.

Tom DiCecco