

SWARM Board Meeting Minutes

Meeting date: December 7, 2010; Catrina Fish's house, 7:00pm

Board Members in Attendance: Catrina Fish, Linda Jarvis, Brian Corzilius, Doug McHart, Brad Sears (by proxy), Valerie Kanonchov and Craig Mountain [quorum]

Visitors Present: none

The purpose of the meeting was to follow up on the attorney visit as well as to discuss any inclusions to be sent with the annual billing.

Minutes. The minutes for the September 2010 meeting had been previously distributed via email and no changes had been put forth. The minutes were not reviewed at this meeting.

Financial Report. Linda gave the current account balances as follows: 1st Gate: \$2246, 2nd Gate: \$1566, 3rd Gate: \$1921. These balances do not reflect work in progress (not yet billed), nor upcoming general obligations (mailings, etc.).

Policy Document Changes. Brian noted that he changed the Maintenance Policy to add the need for a periodic inspection of the 3rd Gate bridge. He also noted that the Billing Policy's reference to the Superior Court judgment was corrected to reflect the proper title and date. The revised documents have been posted to the community website.

Newsletter. During the September meeting, discussions were trending towards not doing a newsletter to include with the January billings. This was revisited due to the need to convey the annual financial report and Board member contacts to all members (including those without internet access to the website). It was agreed that a one page inclusion would be developed for the same.

Attorney Visit / Delinquent Accounts. *Background: A document containing SWARM information and questions had been prepared (and distributed to the Board) for the visit with the attorney on October 12, attended by 3 of the members. Following that visit, a synopsis of the attorney discussions was prepared and distributed to the Board. After additional research (County records, etc.), a list of recommendations was prepared and sent out to the Board prior to this meeting.*

Salient points from the attorney meeting:

1. Although CC&Rs only appear to exist for the Sherwood Hills division, the CC&Rs are irrelevant as they do not provide the basis for SWARM's existence and responsibilities. Instead, it is the 1992 Superior Court *Final Judgment* that provides such.
2. We can legally pass on the debt to the new owner when the Title Company has been negligent in contacting us before the sale goes through (since it is a debt against the property, for access). This rightfully puts the onus on those who have the resources (e.g. contact information of previous owner) and impetus (Title and Mortgage Cos.).

3. We can change to compounded interest on all delinquent accounts which will accelerate the debt, potentially getting one's attention faster. This will also help cover more of the costs to the community.
4. We should file a lawsuit against all outstanding delinquencies that have not responded to our appeals with payment arrangements. The recording of the judgment of this lawsuit will provide another foundation stone for future actions, put us 1st in line for repayment during a sale, as well as providing additional motivation to the Title Companies towards contacting us during future property sales. All attorney and court (as well as prior) costs incurred will be passed on to the delinquent property owner.

Following the presentation and discussions of the above, the dialog turned to the threshold for consideration of a delinquent member in the lawsuit. The considerations included:

- a) 5 years delinquent or an aggregate debt of \$1700.
- b) All of those that have lived here a minimum of 5 years and made only 1 or 2 payments.
- c) All of those that have never paid AND were defendants in the 1992 Superior Court case (i.e. those already ordered to pay as a result of that case).

Note that in our considerations here, our concern is solely over those delinquent accounts that have not responded to our appeals over the last 2 years (as outlined in the Billing Policy).

Board Members ended up unanimously selecting option (a) as the criteria. The Billing Policy will be updated to reflect the lawsuit action and the threshold point as noted.

An attorney will be contacted to discuss the lawsuit, ideally the original attorney behind the 1992 Superior Case. Also to be discussed with the attorney will be a re-evaluation of the rate basis since these are no longer keeping pace with the cost of maintenance. The projected attorney and case costs along any other issues with proceeding will be brought back to the Board for discussion before moving ahead.

The accountant will be contacted to discuss aspects of compounding interest and the results of that discussion will be brought back before the Board.

Next Meeting.

Tentatively setup for mid January to prepare the billings for mailing.

The meeting was adjourned at approximately 9pm.

Minutes recorded by Brian Corzilius

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