

The Million Dollar Question

on the failure the Board to act

The October Board meeting marked a low point in Community governance as the Board, except for that lone dissenter Bob Frank, voted to accept the Finance Committee's recommendation to increase our annual assessments. While Bob Frank voiced his objection over the need to raise assessments as being premature, other Board members felt compelled to ignore the obvious—the Board had failed in their fiduciary duty to the Community to address and resolve the million dollar question that Favil West had left on the table for others to address when he retired as president earlier this year.

That unmet fiduciary duty, of course, was to tackle the glaring and outstanding issue of the adequacy of the Developer's monetary obligations to Sun City at the time of transition. How much more did the Developer owe the Association? That a problem existed was evident, at least to the prior Board since the prior Board had accepted and overcame the challenge that Favil West in part had met. The only thing left unknown was the magnitude of additional monies owed to the Association. Sadly, under the leadership of Mike Dixon, a majority of our current Board was loathe to pick up that mantle and the mandate they owed to the Community. That mandate, of course, was not to raise our assessments unless that step was absolutely necessary. The current Board chose to ignore their duty and to stick the homeowner with the bill.

That a majority of the Board did not have the sense or competence to understand their duty is baffling. Perhaps they were immersed in or obsessing over lesser important matters. Perhaps they were under the misconception that the Developer's commitment to construct our third recreation center was actually a separate issue from and had no connection to the Developer's transition obligations. Reportedly, Mike Dixon was reluctant to rock Pulte's boat for fear that might put at risk work on the planned recreation center. But what was more important than a decision to abandon their fiduciary duty to hold that fiscal line in the sand on dues until they determined that an increase in assessments was really necessary.

One would assume that the newly elected Board had an immediate duty to pursue the adequacy of Pulte's money transfers to the Association on the heels of Favil West's closing and successful efforts to address with Pulte the shortfall in Neighborhood transition reserves. Not only did a majority of the Board feel otherwise, they breached their fiduciary duty by voting an increase in assessments they are now unable to justify. In deciding not to pursue that monies owed issue with Pulte in a timely manner, a majority of the Board was compelled to raise our assessments. The choice seemed simple enough, either pursue with Pulte what was

correctly owed to general Association reserves, thereby increasing the expectation that no dues increase would be necessary, or drop any confrontation with Pulte over the matter, thereby letting Pulte off the hook and billing the homeowner for any shortfall.

Some homeowners appear genuinely thankful that our assessments are increasing by only \$160 annually. They're thinking, "Isn't it about time for assessments to raise?" A \$160 increase, after all, represents an increase of only \$22 a year over the seven year period that assessments have been stable at \$940 a year since 2001. What a great deal! And now Board members are finding any number of irrelevant reasons to justify increasing our assessments at this time, making themselves look patently ridiculous in the process.

Memories are short. It was not that long ago that our Finance Committee was projecting a 50% increase in assessments over the next three years by 2010, going from \$940 a year to \$1,438. In his 2008 budget presentation, former Finance Committee chair Jack Troia managed to avoid that sensitive issue by saying we do know what will happen to our budget in the future. While true, the issue of whether and how much Pulte owes the Association should have been of paramount importance to the Board. It wasn't and we now see the results of their failure to act.

Before you can make any judgment about whether our current assessment of \$940 a year is too low and needs an upward adjustment, one needs to understand what that assessment amount was intended to fund at the time in 2001 when assessments were raised. More to the point, since 2001 the Association has been collecting \$940 a year to fund not merely overall Association amenities and administrative needs, but also **significant** Association operations no longer funded from mid-2002 forward. While the Association was collecting \$940 a year, they no longer had any expenses to operate and pay for the following:

- Two 18-hole golf courses, staff, equipment and grounds facilities
- The Revere Club, staff, pro shop, bar, restaurant and banquet facilities
- Trumpets Restaurant, staff and banquet operations

As you can imagine, funding those operations and amenities was considerable. While the need to fund those operations had ceased, the Association continued to collect \$940 a year. Pulte sold the golf courses and Club to Troon Golf, and Trumpets, that had been a negative drain on our budget, was leased to S&D Café V, LLC. Those two transactions should have provided years of expense relief to the Association's budgets, and they did so. That, plus ever increasing Association assessment income (\$800,000+) from Pulte's annual sale of new homes, allowed the Association to maintain assessments at the \$940 level. Had Mike Dixon and the Board made the correct fiduciary judgment when they took office, assessments

would still be \$940 a year. Contrary to the impression by some that income from assessments would be relatively flat in 2008, due to the Developer's anticipated build-out to 7,144 homes in 2007, the opposite is true. As a matter of fact, assessment income is projected to increase in 2008 over 2007 by \$1 million. In other words, we will not realize the full-year assessment impact of lots sold and released to Pulte for sale in 2007 until 2008.

Mike Dixon came about as close to a mea culpa and to the real issue when at the October Board meeting he declared that we have to deal with this assessment issue as we find it at this time. I would offer what I believe to be a fair translation—since this Board failed to address the Developer transition payment issue seriously and in a timely manner five months earlier, we are in no position to deal with this matter now and must therefore proceed to approve the recommended increase in assessments. Some no doubt would differ with that view of the matter.

Now the Board, as well as my fellow blogger and Board apologist, David Berman, will tell you that the Board is proceeding in due course to resolve this issue. And, as reported by Mr. Berman, the Board voted in October to spend \$7,820 to obtain a new reserve study for the transition period ending 5/31/05. Now we are left with an implied promise to pursue the matter with the Developer. While it's of some comfort to see the Board springing to action now, albeit too late to assuage their decision to increase assessments, one gets the impression of a Johnny-come-lately who has only now become aware of the outcry for Board action. In reality, though, the Board's recent action is more akin to a shotgun wedding where they were forced into doing something they had no plans in pursuing since taking office.

Homeowners should understand that the Board's decision to acquire a new reserve study as of 5/31/2005 was little more than a face saving or delaying act since there is no evidence that such a step on the Board's part was actually needed in the presence of the 2006 Reserve Study. Favi West had already demonstrated that. One presumes that our own accountants have the ability to generate 2005 estimates from data that was shown in the 2006 Reserve Study. Since the Board has now proceeded to acquire such a new reserve study, there is a strong presumption that the Board will be acting on the outcome.

The argument about how to proceed with Pulte will come when the results of the new reserve study are compared with the results of the 2006 study. Whether subsequent Board action to resolve this million dollar question in a satisfactory manner will save the Board's credibility and seats in the upcoming election will have to be seen.

Ron Johnson, 1 November 2007