

## **REASONS TO VOTE NO**

### **when you are asked to fund the golf club**

#### **The golf club's mailing failed to pass the fact test**

- Will funding the club protect property values? **NO**
- Has the club been well managed over time? **NO**
- Does the club have a bright business outlook? **NO**

#### **The SLOA board is cherry-picking SLOA's governing documents to force a vote on a golf club bailout**

- Is the board acting within the bylaws? **NO**
- Is the board adhering to the CC&Rs? **NO**
- Is the Board acting within the law? **NO**
- 7 of 10 SLOA board members are golf club members.  
Do they acknowledge that conflict of interest? **NO**
- Has the board listened to attorneys and members  
who have pointed out the legal errors of their decisions? **NO**

#### **The golf club wants you to help pay its bills**

- Should you pay so they can play? **NO**
- Do you want to be liable for their debts? **NO**
- Do you want to bail them out forever? **NO**

#### **Finally, does it make sense to support a failing private club just because it happens to be in your neighborhood? **NO****

Regardless of whether the board's actions are illegal, you will be asked to vote on funding the golf club. You can control your financial future by voting. We urge you to vote and **VOTE NO**. If you can't vote in person, give your proxy to someone who will vote **NO**; use the proxy form from Sunland-Facts. **DO NOT GIVE YOUR PROXY TO THE SLOA BOARD**. If you want more information, read the rest of this mailing or visit Sunland-Facts.info. Also, I'd be happy to provide you with additional information. Please feel free to contact me at any time. See below or in the transmitting e-mail message for my contact information.

Vote

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## **VOTE NO!**

Sometime soon, probably in March or April, the SLOA board will call for a vote on the petition to fund the golf club. Sunland-Facts (S-F) has tried to reason with the board, inform the board, and show the board the unlawfulness of moving forward. We have been blocked by a SLOA board majority committed to bailing out **their** golf club. Three board members, who recognize the folly of this plan, are not enough to stop the agenda of the other seven, who are determined to help their golf club at any cost. **S-F needs your help or the SunLand community we all know will cease to exist. We will either forever subsidize their golf club, or we will remain free and independent. It's up to you!**

S-F is an ad hoc group of SLOA homeowners. We became involved because we believe in openness, transparency, and adherence to SLOA's bylaws, its CC&Rs, its articles of incorporation, and Washington State law. Since July 2009, actions of the SLOA board suggest that supporting the golf club has replaced their legally mandated fiduciary duty to exclusively represent and act in the best interests of SunLand property and home owners. The board's decisions since July have contributed to the significant discord that pervades SunLand today. The fact that seven of ten members on the SLOA board are also members of the golf club only heightens the need to scrutinize their conduct concerning the golf club. **What we have found deserves your attention.**

S-F has worked ceaselessly for seven months in this effort. Your neighbors have spent thousands of dollars and thousands of hours to protect SunLand from questionable decisions by the SLOA board. We're asking you to help. **When it comes to the vote, attend and vote no!**

S-F is committed to staying in touch with you until the end. On the first page of this mailing (or in the email you received), you'll find a **name** and either an **e-mail address** or a **phone number**. Got a question? Need some information? **Contact the person indicated. He or she wants to help you help SunLand.**

### **How well is your SLOA board serving you?**

**The SLOA board has held several secret meetings. What doesn't it want you to know?** Last July the SLOA board met "privately" with members of the golf club board. Members of the golf club board were invited to make a presentation at the July SLOA board meeting about SLOA financially supporting the club. That meeting was adjourned to a special meeting that in part included golf club board members. One SLOA member who tried to attend this special meeting was forced to leave on questionable legal grounds. Repeatedly, over the fall and winter, the SLOA board held closed sessions to discuss so-called legal matters and legal advice that your dues paid more than \$5,000 for. To date, the SLOA board has refused to release any information on these meetings. Requests for records have been denied. Oral and written questions have gone unanswered. Washington State law has been ignored. **What information is the SLOA board hiding and why are they hiding it from the homeowners who paid for it?**

**The SLOA board repeatedly ignores homeowner suggestions. Who are they listening to?** More than 100 SLOA homeowners signed a letter asking the SLOA board not to connect SLOA to the golf club by providing SLOA funds to the club. The board ignored the letter. At least four attorneys, including the board's own, have advised the SLOA board against considering financial support of the golf club. They've been ignored. Numerous homeowners have written the SLOA board offering their reasons for not funding the golf club, including their interpretation of SLOA's governing documents, which prohibit such financial support. All have been ignored. Not once has the SLOA board offered an explanation. Board members consult their attorney and move closer to connecting your finances to those of their golf club. **What does their attorney know that the other attorneys don't know? Why are they unwilling to share legal advice paid for by those homeowners?**

**Has SLOA's attorney done a 180°? On what grounds?** In a March 17, 2006, letter to the SLOA board on the same issue, the SLOA board's attorney said, Don't fund the golf club; you can't fund the golf club. That opinion was based on the attorney's examination of SLOA's governing documents. These documents have not changed since 2006. Neither have applicable state laws. **So why the abrupt turnabout? Why has the attorney's advice changed? Is he leading SLOA astray, or is the board leading him astray?**

**Any financial assistance by SLOA to the golf club directly benefits golf club members, not SLOA members.** Each golf club member "owns" a \$1,400 share of the club's acknowledged annual operations and maintenance deficit (\$270,000 deficit spread across 190 members). Now, under cover of "preservation and maintenance," the golf club wants SLOA property and homeowners to assume responsibility for a share of the golf club's annual deficit year after year. All golf club members will benefit if SLOA members are required to fund the golf club. Rather than assume responsibility for their full share of the golf club's deficit, golf club members want non-golf club SLOA members to help cover a deficit that belongs only to the golf club. Moreover, the seven SLOA board members who are also golf club members have a financial conflict of interest: they are managing the affairs of SLOA in a manner that financially benefits them as individuals. **Faithful execution of their duties as board members demands that they recuse themselves from any decision making that could advance the golf club's goals over the wider interests of SLOA property and home owners.**

**SLOA's governing documents show the legal and correct way forward, but only if they are followed.** At one time or another since last summer, the SLOA board has violated, misinterpreted, denied the existence of, refused to acknowledge, or failed to enforce portions of SLOA's bylaws, its CC&Rs, its articles of incorporation, and Washington State law, Titles 23, 24, and 64. The seven members of the SLOA board may be only one step away from multiple lawsuits against them personally. Do they plan to use your money to defend themselves? One attorney suggested that if the SLOA board proceeds as it is "currently planning to do, [it should] assess additional funds for the tens of thousands of dollars in legal fees that [it is] inevitably going to have to pay to defend [its] actions." **Does the SLOA board know what it's doing to this community? Does it care what it can and can't do? Does it care about homeowners?**

**How well is your SLOA board serving you?**

## What's happened across time?

**2006**

**March**

Pepper Putnam, SLOA board president, receives a letter response from the board's attorney, Patrick Irwin, to the question, Can the board—via dues or assessments—financially assist the golf club? Answer: **No, don't try.**

**2009**

**July**

After an unknown number of private informal discussions, SLOA board members meet privately with the golf club board to discuss an assessment to financially assist the club.

At its regular monthly meeting, the SLOA board allows the club to make a formal presentation on a proposed SLOA assessment to benefit the club.

The SLOA board calls a special meeting, including time with golf club board members, to continue discussing the golf club proposal. One SLOA member who tries to attend this meeting is forced to leave.

**August**

The "SunLand Bulletin" contains a message from the SLOA board president, extolling the value of the golf course and how important it is to the SLOA community.

**September**

The SLOA board receives a letter from the owners of more than 100 homes in SunLand, asking the SLOA board to stop any consideration of the club's proposal. The board ignores the letter.

**Sunland-Facts is formed.** From the work of a small number of SLOA homeowners, S-F has grown to more than 300 concerned property and home owners.

**October**

Sunland-Facts.info is created by Chuck Howerton as a Web site dedicated to informing SunLand homeowners about the club's proposal and the SLOA board's passive acceptance of it.

**November**

At the SLOA board meeting, Jim Karr presents a list of questions about the extent to which the board has examined the transparency, legality, and consequences of the club's proposal. Board members declined to answer the questions.

Eldon Dennis and Dan Failoni, two SLOA board members, oppose proceeding with the golf club's proposal because it violates SLOA's bylaws, CC&Rs, articles of incorporation, and several state laws. In addition, because 7 of 10 SLOA board members are also golf club members, the issue of conflict of interest and self-dealing is raised. The seven declare that they've talked with "the attorney," and they don't have a conflict of interest. To this day, SLOA members have not been

told by their board what was discussed or what was asked, despite the reality that the membership paid for the attorney's analyses.

Every property or home owner in SunLand receives the golf club's "package" containing their proposal and supposed supporting information.

**December** Sunland-Facts mails an information packet to all property and home owners and hosts an open forum to factually rebut the golf club's package. More than 300 SLOA members attend, and S-F membership grows dramatically as a result.

## 2010

**January** The golf club submits its petition to the SLOA board. Several attempts to get a copy of the complete petition are denied, in violation of state law. SLOA's attorney points out the error to the board president, who relents and provides the petition.

The SLOA board holds two special meetings to determine procedures for handling the petition. Board members produce a draft procedure, step 2 of which requires a review of the petition as to its legality and compliance with SLOA's governing documents. S-F members and two attorneys write the board specifying the petition's failure on both of the criteria in step 2. The board ignores the communication.

**February** The president's message in the "SunLand Bulletin" echoes the talking points of the golf club package, stressing property values and the importance of the golf course to the "community."

Eldon Dennis and Dan Failoni, at the Feb. SLOA board meeting, move to reject the golf club's petition. On a roll-call vote, Eldon and Dan are joined by Gary Fortmann, but the motion is defeated by the votes of all other SLOA board members present, each of whom is also a golf club member.

**From August 2010 to the present, the SLOA board has received numerous letters from SLOA members and from at least four attorneys, informing the board in detail about the legal and procedural errors of assisting the club. The board has scoffed and ignored every letter.**

We expect that the SLOA board will at its March meeting set the date, time, and place for a discussion and vote on the issue of SLOA's funding the golf club.

If the club wins the vote, we'll end up in court. A NO vote by property and home owners will, we hope, end this effort to circumvent SLOA's governing documents and state law.

If we don't win, going to court will be a personal financial disaster for the seven SLOA board and golf club members and for the entire SunLand community.

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Any vote that would create a financial connection between SLOA and the golf course would involve or has already involved a violation of the following governing documents, whose very existence is intended to guide board actions to avoid such violations.

### **SLOA Articles of Incorporation**

- Art. I: No monetary gain to members
- Art. III, secs. 2, 5: Collection of dues, assessments, and funds

### **CC&Rs**

- Art. I: Use of funds outside the association
- Art. VI; Art. V, sec. 3e,h; Art. III, sec. 1b: Unauthorized assumption of corporate powers
- Art. XI: Establishment of common areas

### **Bylaws**

- Art. II sec. 1 and Art. III, secs. 1,5,6,7; Art. IV, secs 1,3; Art. XII, secs. 1a,1b; Art. XI, secs. 1,2: Use of funds outside the association
- Art. IV, Sec. 11: Conflict of interest, acting without a quorum
- Art. XI, secs. 1,2 and Art. XII: Budgeting, accounting, and commingling of funds
- Art. VI, sec.13 c,f: Unauthorized assumption of corporate powers

### **State Law**

- RCW 24.03.470: Unauthorized assumption of corporate powers
- RCW 24.03.070 and 24.03.035(12): Conformity to law
- RCW 24.03.045(4c) and 24.08.510(4b): Personal receipt of money
- RCW 24.06.035(2) and 23B.08.510(4a,b): Nullification of indemnity
- RCW 64.38.025: Failure of duty of loyalty, fiduciary misconduct

### **U.S. IRS Code 26.501**

- US 26.501(C 7): Violation of tax-exempt status, income to members