



Silver Springs Master HOA August 18, 2009 Minutes

Board Members in Attendance: 1) Jane Hamilton (Park Place), 2) Phil Tisovec (Silver Meadows), 3) Allen Durfee (Ptarmigan), 4) Whit Logan (Meadow Springs), 5) Bill Noland (SSSFHOA), 6) Tracy Phillips (Quail Meadows II),

Board Members Absent: 1) Linda Bowman (NorthShore), 2) Rosemary Craighill (Meadow Wild), 3) Bill Rusconi (The Springs), 4) Anthony Sands (Quail Meadows I), 5) Steve LoRe (SouthShore), 6) Isa Wright (WillowBend East), 7) Mark Rasmussen (WillowBend West).

Proxies: 0

[1990 Silver Springs Master Homeowners Bylaws: “Article V. Section 3. Quorum. A majority of the Board of Trustees shall constitute a quorum for the transaction of business. In the event a Trustee is not available for a Board Meeting, his written proxy sent to any **trustee** will establish his vote.” Proxies given to Robyn Bailey are therefore not valid proxies as Bailey is a hired manager without a contract and not an elected trustee. See Section 4. Compensation.]

Guests: Les Carriel (SSSF), Gaylynn Mooney (NorthShore), Bill Gunter (SSSF), Guy Sanderson (SSSF), Julia Loughlin (SSSF), Lyn Cier (SSSF).

Meeting called to Order: 6:40 PM

Approval of Minutes: Approved as read.

Committee Reports:

Lakes and Drains: Les Carriel (Lake Committee) obtained a bid from Cross Marine for the small lake drains which would bring the bid to \$101,594. A motion was entered to delay the work until next fall. After discussion this motion was withdrawn. A motion to get other bids passed. It was agreed that the work would be accomplished not later than next fall. A motion was passed which required the work be done this year if the Board accepts either new bids or the current bid.

Unfinished Business:

- 1) Tennis Court Parcel: The title to the west tennis court is still under review though the County Recorder has stated that the [PP-91 parcel](#) of .67 acres is recorded as owned in its entirety by the MHOA and the note on the Dev-HOA Agreement is incorrect. The repair on the pavilion roof is on the contractor's schedule.

- 2) [Parcel J and R](#) Gate and Grate: The grate over the drainage culvert is in place and will be secured shortly. A motion was passed to accept the \$1,300 bid from Bob Radke to construct the gate restricting vehicular access to the south berm.
- 3) [Park Landscaping](#): The willows along the lakeshore have been chopped down and some of the very large willows in the center of the Park have been literally “scalped” by the Bailey’s Greenleaf crew. Much ambiance and shade have been lost. Removing all this landscape greenery was a terrible mistake, not approved by the Members, and irreconcilable in the opinion of many Park visitors. Next year when the willow brush is around 6” tall the Greenleaf crew plans to spray it [with systemic, broad-spectrum herbicide?] to further damage this environment.
- 4) Park Place Drain Excavation: The exploratory excavation revealed that the pipe ends on the Park Place SOS-B-35 private lot where the water has been coming to the surface (artesian spring). The board agreed that the MHOA has taken responsibility for the water collection basin culvert and the flow of the water to the point where it currently ends. From this point on it is not MHOA property and it is now up to the property owner to get the water to the storm gutter. The Summit County Engineer has agreed that it is okay for the seasonal water to drain into the storm drain system via the street gutter. Upon receipt of proposals from the contractor the board will relay its position to the property owner.
- 5) [MHOA Documents](#): Due to no consensus on expanding the role of the MHOA Noland proposed to move forward with updating the MHOA documents. Beginning in March 2008 Lucy Archer has volunteered to assist in this process. A task force is to move forward with this project.
- 6) Property Title Reports: Should be completed next week.
- 7) Lake Acquisition Affidavit: The secretary will have this document notarized.
- 8) Late HOA Dues: Most have now paid. Criteria will be included in the Association document revisions.
- 9) Financial Audit: LoRe is in charge of securing an auditing firm, though it is the responsibility of the board treasurer.

ARTICLE VIII

BOOKS AND RECORDS

Section 1. Books and Accounts. The books and accounts of the Association shall be kept under the direction of the Treasurer and in accordance with reasonable standards and accounting procedures. A certified public accountant approved by the Board of Trustees and twenty-five (25%) percent of the Members shall be chosen to do a certified audit if requested by the Board of Trustees and/or twenty-five (25%) of the Members.

- 10) MHOA Document Access: All documents posted on the website will be in .PDF format which prevents search engines from picking them up during a subject search.
- 11) [NorthShore “Wetlands”](#): NorthShore subdivision has agreed to join the neighborhood watch program for this wetlands parcel within its boundaries.
- 12) [Lakes Committee](#): A proposal was presented to have a committee for each Silver Springs Community lake (pond) and to ask for more involvement from lot owners around the lakes. A “Friends of the Lake” volunteer organization was proposed where interested parties could contribute to the upkeep of the lakes. Our legal counsel will be consulted as to whether this type of activity is acceptable for a non-profit organization.
- 13) Prioritize Projects: The MHOA budget and reserve [\$80,000 to \$120,000] prior to assigning priorities on Community projects.
- 14) Lake Resolutions: restrict use of fireworks. During the summer of 2008 a couple boys who live next to the Park set off fireworks at one o’clock in the morning startling a number of lake shore owners and leaving char marks on the beach. A motion was passed to prohibiting fireworks on MHOA owned or controlled property. Resolutions for Park hours and restriction on fireworks will be written and added to the Amended Bylaws.
- 15) Park signage: A motion was passed to add “dawn to dusk” limitations to Lake Park signs.
- 16) Lake Survey Results: The Lake was surveyed when it was dredged c.1980; then it was surveyed again when it was transferred to the Silver Springs Water Company with an Enjoyment Easement; then it was surveyed again when it was transferred from the Silver Springs Water Company to Mountain Regional Water Company; then it was surveyed c.2004 when Mountain Regional Water Company transferred it to the MHOA. And now it has been surveyed again as part of “performing due diligence on MHOA property.” This boundary survey was completed on the “Lakeshore” parcels R and J inclusive of the South Berm. Some encroachments by a couple NorthShore lots were identified on common areas along the dams, some other common areas, and by Silver Springs Lot 37 onto stream Parcel Q. The issue of Private Easement and non-Private Easement encroachment was addressed.

An **easement** is a non-possessory interest to use real property in possession of another entity for a stated purpose. An easement is considered as a property right in itself at common law and is still treated as a type of property in most jurisdictions.

A **private easement** is held by private individuals or entities. They include prescriptive easements aka implied easements. An implied easement provides the easement holder a right to use another person's property for the purpose the easement holder has used the property for a certain number of years. An easement may also be created by prior use. In this type of implied easement, an assumption is made that the parties intended to create an easement, but simply forgot to include it in the deed. In order to justify this assumption, the use must be visible, permanent, and reasonably necessary.

A **public easement** grants an easement for a public use, for example, to allow the public an access over a parcel owned by an individual. It is the privilege or right of the public to use the property which is not their own. For instance the privilege to use a pathway leading to the beach, from a private property. It is allowed or arranged so by the local government/HOA.

- 17) Dams: Some of the MHOA trustees accepted responsibility of the lakes and dams (without the approving votes of the General Membership) in 2004 with the [June 2004 Lake Conveyance Agreement](#). Some of the more recent property owners have not

schooled themselves regarding where their property boundaries are and what are the restrictions for plantings and use of land contiguous with the dams. The 2004 Klinefelder Engineering Report had warned of liabilities if the dams, baffles, gates, and soundness of the outlets were to fail and individual homeowner properties were damaged or destroyed. The 2004 condition of the lakes and their infrastructures was very poor and were rebuilt in the subsequent year at great cost to the General Membership (\$143,000). Since their completion the MHOA and Lake Committee neglected to provide due and proper vigilance to discourage burrowing rodents and invasive roots of trees, grasses, and other vegetation from eroding the new dam site and protecting the provisions of the James L. Cross Marine Projects Consulting Company's 50 year warranty on the dams they built for the MHOA in 2005-2006. Currently the State Water Engineer's Office Dam Inspector [Everett Taylor](#) did [meet with half a dozen property owners who are affected by the State Water Engineer rules regarding the dams](#). The property around the dams has a State mandate to bring the dam sites up to State standards.

A property attorney has been retained by the MHOA board to help them to read, understand, and apply the various documents appurtenant to the lakes and dams.

[Opinion: It seems apparent to this writer that true leadership is absent from the Silver Springs MHOA board. The trustees in general appear unwilling or incapable of studying documents and making informed decisions to fulfill their stewardship. Time after time they make motions to hire an attorney to hold their hands at \$250 an hour to advise them on matters that they have been elected to decide on behalf of our community. "It's not rocket science guys," show some backbone! If you can't perform your duties, if you can't follow the founding documents, if you can't make decisions, get out of there and let others, who are willing to perform their duties and who can make decisions, lead the way.]

New Business:

Website Communication to Members: The board will send out postcards to remind members of the website that the MHOA began in 2000 at www.silverspringshoa.org but which now has a new domain at www.silverspringscommunities.com. This website is a tremendous, expansive asset and resource of information for our thirteen MHOA subdivisions. The new board members should be using it as a resource to study the founding and guiding documents, and to bring themselves up to date on the various issues relating to Silver Springs. Not only is the website free and openly accessible to all members but it provides our History, Minutes, Budgets, Common Area Parcels, Board Trustees contact information, Neighbor News, great photos, etc. We are very grateful to the Archers for providing all this research, up-to-date information, and posting currency for our 508 General Membership property owners.

Meeting Frequency: A motion was made that for the near future the Board schedule a meeting every two weeks to deal with rapidly developing issues. The motion passed with 5 in favor, 3 against, 1 abstained. (Only six trustees were in attendance, the count might include votes by visitors, as has been the case in the past.)

Resolutions: The Bylaws provide the board with the option of using board resolutions to establish policy and more clearly define policies and their application. Resolutions have been passed on a number of Articles and issues since 1990 and can be found listed on the www.silverspringscommunities.com website.

ARTICLE XI

ASSOCIATION RULES

The Board of Trustees shall have the power to adopt and establish, by resolution, such common recreational area management and operational rules and regulations as it may deem necessary for the maintenance, operation management, and control of the Association, and the Board of Trustees may from time to time, by resolution, alter, amend, and repeal such rules and regulations. Member shall at all times obey such rules and regulations and do their best efforts to see that they are faithfully observed by their tenants and the persons over whom they have or may exercise control supervision. Copies of all rules and regulations adopted by the Board of Trustees shall be presented at the annual meeting or mailed or delivered to all Members at least ten (10) days prior to the effective date thereof. (See Attachment [No Attachment included in this copy])

Association Member Comments: None.

Next MHOA meeting will be on Tuesday, September 1, 2009 at [St. Luke's](#) at 6:30 PM.
Another MHOA meeting is scheduled for Tuesday, September 15, 2009 at St. Luke's at 6:30 PM.

All present were in favor to adjourn at 9:45 PM

Silver Springs Master Homeowners Association Board Meeting Minutes are the property of the Association Members. In this manner the Board is held accountable for their actions. The Association Members hold the right of free access, perusal, and use of these documents and chose to do so at the Member website at www.silverspringscommunity.com.