



PROXY BALLOT EXPLANATIONS OF VOTE ISSUES

Members can vote for 1-, 2-, or 3- or for all three items. The interest level for some kind of reform is what we are measuring here.

1. Recognize the MA as the Property Management Non-Profit Corporation that it already is – See <http://www.silverspringscommunity.com/wp-content/uploads/2010-march17-revision5.pdf> and the other posted flyers. When the dissent of the MA by Community Members began on February 9, 2010 as a result of the 200% assessment increase without the Association Member vote, the option to dissolve the MA was the reaction from many Members. As input and information increased, this option evolved into an appeal to restructure the “unformed legitimately” MA into what it truly is, a Non-Profit Corporation to manage the Common Areas, see the [1990 Articles of Incorporation](#). The name “**Master Homeowners Association**” is a **misnomer. The MA is not a true homeowners association. Its Bylaws are incomplete and it has no CC&Rs. The trustees are not directly elected by the Community Members.** An HOA attorney advises us: “Bylaws are not required under the current Nonprofit Act. Without bylaws the Nonprofit Act becomes your bylaws. If you are attempting to classify owners into one of three categories, you will need to amend your Articles of Incorporation to allow you to create 3 classes of owners, then spell out the rights and obligations of each. See [Utah Code 16-6a-202](#).” Amending to bring current the MA 1990 Articles of Incorporation is all that is necessary to legalize and administer the “MA”. If the Community really wants to 1) streamline governance, 2) greatly reduce the \$24,000 expense in the 2010 Budget for “Professional (Legal) Services” to rewrite the Bylaws; 3) establish tiered and fair maintenance assessments; and, 4) eliminate multiple conflicting documents; then a “Yes” vote will move toward that end. The “MA” should be properly identified as what it is: **The Silver Springs Community Common Areas Property Management Non-Profit Corporation.**

The question is do we want to continue with a nomenclature system that for the most part has not worked effectively, legally, or fairly for twenty years? Or does our Community need to correctly name and re-organize to be more efficient? “If you do what you've always done, you'll get what you've always gotten.” -- Anthony Robbins

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2. Proposal to allow individual subdivisions to Resign from the MA – An option requested for voluntary membership. There are no MA rules for individual subdivisions to join or resign. On November 17, 2009 two Community subdivisions resigned their participation in the MA. The MA is trying to use various means to keep them attached. On April 13, 2010 at the MA board meeting there was a descriptive discussion of how a third subdivision, The Springs, had been ejected around 2006 from MA participation because one owner was delinquent which resulted in non-payment of MA assessments. This set the precedence for other individual subdivisions to also resign participation from the MA by way of Members and

individual subdivisions withholding payment to the MA for the 2010 assessment of \$357 per residential unit. The Springs resignation and accepted non-membership status was reiterated and confirmed at this meeting.

3. Proposal for the MA to be recognized as a property management entity restructured into **three parts –1) Condos, 2) General Members, 3) Lake view Owners**-- to remedy the unfairness of the 450 non-lake view owners paying for privatized water amenities that benefit only 54 lake view owners. This is an effort to mend a longstanding grievance in our community, to implement a tiered assessment without conflicting with individual subdivision Bylaws and CC&Rs, and to allow the lake view owners more control of the lake maintenance and use without compelling the General Membership to finance their private projects.

Lakes. At the April 13, 2010 MA board meeting some of the lake view owners presented a proposal to the MA board to purchase the land from their back lot lines to the waters edge. This supports the statement that the lake view owners do want more control and more privatization of the lake and its perimeter. The lake view owners would continue to do the same work on behalf of the lakes that they do now. The MA has paid for the long-term repair expenses, guaranteed good for several more decades. If [the dams](#) are private property then the Association Members should not be asked to finance their improvement. The lake view owners would be responsible for the **\$8,000 a year for water quality chemicals, divided by 54 owners = \$150 each per year**, any increase can be added for other lake projects they want to do or to provide a contingency fund..

\$357 per lot per year times 54 lake view lots equals \$19,278 per year.

Tennis Court(s). The condo subdivisions benefit greatly from restructuring the MA into three property management parts. Currently the Condo owners are being assessed \$357 per unit by the MA in 2010 which includes \$182 for the Little Lake repairs that the General Members do not/ cannot use. Willowbend West Condos was the original owner of one court, Meadow Wild and Meadow Spring owns the other court, both sharing one parcel of land. The seven condo-townhome subdivisions boards can cooperate to maintain this amenity bringing great savings to their Members.

\$357 per unit times 126 Condos equals \$44,982 collected in one year.

That total would go a long way to maintain the Tennis court parcel for many years. The common area (tennis court) assessment could be decreased to as little as

\$48 per unit per year times 126 Condos equals \$6000

We have added all the MA expenditures for the Tennis Court parcel (including work on the Meadow Wild/Meadow Springs court). The total is around \$120,000 during twenty years (1990-2010). Divide \$120,000 by twenty years equals \$6,000 per year. Divide \$6,000 by 126 Condos equals \$47.62 per Condo per year.

Park. SSSFHOA has a long history of involvement with the Park and its maintenance. The 2.01 acre Park could be maintained by this board and its Members at a greatly reduced cost. **\$75 per Member for the Park times 189 SSSF Members equals \$14,175 per year to maintain the Park. Again, a great savings to the Members.**

Streamline the current organization and everybody wins.

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4. Proposal that limits the amount of annual assessments from the MA to the General Members. **This is not a change but rather a reminder to the MA board** that it is obligated to adhere to rules and regulations that require annual Association approval of the budget and a vote on capital improvement assessments; this has not been put into practice. A “Yes” vote would require the MA board to adhere to HOA charter rules.

Currently the MA is authorized only with the upkeep of the Common Area parcels: -with one of the two tennis courts on the [PP-91 Tennis parcel](#) (one court is the property of Meadow Wild/Meadow Springs), -with the [2.01 acre Park](#), -and since 2004, with the [two lakes](#). There are also some [undeveloped areas](#). The [2010 Budget for Expenditures is \\$209,872](#). Three times what they were last year.

If proposal #3 is implemented the MA-Property Management Corp. would collect annual assessments based on the amenity tied in with one of the categories of residential units. Also this proposal provides for General Member participation requiring the boards to implement the voting rights issued to the Association Members within the HOA documents, to approve or disapprove future assessment increases.

On April 20, 2009 the MA board approved the 1990 DEVELOPERS DRAFT Bylaws which state” [Article III. Meeting of MEMBERS, Section 5A. Quorum](#). **Fifty-percent (50%) or more of the Members, either present in person or by proxy, shall constitute a quorum for any and all purposes, except in special assessment circumstances, in which the express provisions require a sixty-six and two-thirds (66 2/3%) percent vote of the members present.”**

This Article should not be confused to be instructions to the board trustees as “members” of the MA board because **Article V** provides instructions for the Meeting of TRUSTEES. This separation of Articles provides a description of Member types: - Association **General “Members”** - and Board **Trustee “Members”**. Also see: [SSSFHOA 1994 CCRS. Article V. Section 4. Special Assessments for Capital Improvements](#). This provision is also in the SSSFHOA 1982 and 1985 CC&Rs. There are no other more current CC&Rs.

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5. Proposal to confirm that all Boards’ Minutes and Budgets are the property of the General Association Members. To be posted promptly, and should exhibit fiduciary duty and transparency of all issues. Currently the MA, the SSSFHOA, and possibly other individual subdivision boards maintain that the Minutes and Budgets are the property of the boards and controlled by the board. *Transparency, disclosure, and citizen input produce fair, representative, accountable governance. A basic tenet of a healthy Community is honest, open communication with all its Member neighbors.*
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6. Proposal to enforce fiduciary duty from all Community boards. This is **another reminder** that HOA charter rules should be set into practice and adhered to. The HOA budgets are suppose to be planned in advance, sent to the Association Members with proper notice to allow for input and questions, then voted on at the Annual Association Meeting. We feel that

all work and expenditures over \$1,000 for property management items should be planned in advance, bid out, and approved at the Annual Association Membership Meeting. Very little HOA work is done during the winter months, shortening the period of time during which expenditures are made for maintenance and repairs to six months out of each year. The likelihood of an emergency repair to the Park or Tennis court parcel is highly unlikely, however part of the planning of the Budget should include a contingency fund.

Budget planning is another reason to categorize the MA into three streamlined property areas: - tennis courts, - Park, -and lakes. There are a number of ideas contributed on how to accomplish fair and more cost effective distribution of Community expenses.

7. Proposal to change the existing HOA document by deleting three words that in the past have allowed the individual HOA boards to carry out Association elections and business with very little General Association Member involvement. Example: [SSSFHOA Bylaws](#) state: *“Article III: Section 5. **Quorum**. Fifty percent (50%) or more of the Members in good standing **present in person or by proxy** shall constitute a quorum for any and all purposes, except in situations in which express provisions require a greater vote in which event a quorum shall be the percentage of interest required for such vote. **In the absence of a quorum, the meeting shall be reconvened within 30 days**, allowing Members at least two (2) weeks notice of meeting and providing proxy forms, at which time it shall reconvene and **any number of a 50% vote of Members** in good standing, **in person or by Proxy shall constitute a quorum**.... At any such adjourned meeting held as set forth above **any business may be transacted** which might have been transacted at the meeting as originally noticed.”*

*Article III. Section 6. **Voting**. When a quorum is present at any meeting, the vote of the Members in good standing representing **more than fifty percent (50%) present at the meeting, either in person or by proxy, shall decide any question of business** properly brought before such meeting, **including the election of the Board of Trustees**. **All votes may be cast either in person or by proxy**. All proxies shall be in writing, and must be of record with the Secretary.”*

Many Members have brought up this one item for many years. It is generally felt that a lack of board member effort to include the Members has served as a means to control the affairs of the HOA by a handful of involved parties, and has produced a seventeen year history in the SSSFHOA of going to a postponement meeting within 30 days that allows "**any number of**" Members to constitute a quorum. Historically attendance at the postponed meeting has been a very small group, averaging sometimes fewer than a dozen Members (around 1% out of 189 properties) to select new officers and conduct HOA business. See the list of SSSFHOA Annual Association Member Meetings and annual postponements at <http://www.silverspringscommunity.com/our-community/silver-springs-sf/bd-mtg-min/>

This proposal will return the seat of power back to the General Association Members. The prevalence of email will make notification to Members much easier and Member response more likely. For nearly two decades Association Members have not been informed or included in many of the HOA board decisions, expenditures, or board officer elections. October of 2008 the board secretary and some neighbor volunteers put in some effort to gain Member support and interest. They achieved an 81% participation from the Association Members. No one on the board would help collect proxies or plan the 2008 Annual Association Meeting, citing the excuse

that “no one ever attends the October meeting so why bother.” Now that it has been proven that when included, Association Members do respond with interest in the HOA affairs, a “Yes” vote on this proposal would guarantee that the HOA board must have a 50% majority vote of property owners, **whether present or by proxy**, in order to complete elections and other HOA business.

8. Proposal to prohibit the various HOA boards from the use of foreclosure against any homeowners. Members feel that no organization formed to protect the interests of the homeowners should have the power to injure homeowners by threat of foreclosure on the Members’ homes. There is no Bylaw or CCR so important or overreaching that it can have precedence over the security of a Members’ home ownership. An arbitrator or mediator shall handle disputes not resolved between the board and the homeowner. The maximum action against an owner shall be non-interest bearing liens (that include the fee for the infraction and reasonable attorney fees, if any) against title to be collected when the property is sold by the owner(s). A “Yes” vote here would change the individual subdivision rules from using foreclosure to enforce delinquencies or non-compliance by property owners.

Example: The SSSFHOA 1994 CC&Rs now in effect state” **ARTICLE VI. NON-PAYMENT OF ASSESSMENTS**

Section 1. Delinquency. Any assessment provided for in this Declaration, which is not paid when due, shall be delinquent. With respect to each assessment not paid within fifteen (15) days after its due date, to the Association may, at its election, require the owner to pay a “late charge” in the sum to be determined by the Association but not to exceed \$10.00 per each delinquent assessment. ~~If any such assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of eighteen percent (18%) per annum, and the Association may, at its option, bring an action of law against any person obligated to pay the same, or, upon compliance with the notice provisions set forth in Section 2 hereof, to foreclose the lien (provided for in Section I of Article V hereof) against the Lot and there shall be added to the amount of such assessment the late charge, interest and all costs of collecting the same, including a reasonable attorney’s fee, whether incurred by filing suit or not. Each owner vests in the Association or its assigns, the right and power to bring all actions at law or in equity or a lien foreclosure against all properties for the collection of such delinquent assessments.~~

Section 2. Notice of Lien. No action shall be brought to foreclose said assessment lien ~~or to proceed under the power of sale herein provided less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered to the owner of said lot. Action shall be limited to a non-interest bearing lien collectible upon the owner’s sale of the property.~~

Section 3. Foreclosure Sale. ~~Any such foreclosure and subsequent sale provided for above is to be conducted in accordance with the laws of the State of Utah relating to liens, mortgages, and deeds of trust. The Association, through its duly authorized agents, shall have the power to bid on the lot at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same.~~

9. Proposal to limit the MA particularly, and other board members, from the continual use of attorney's (currently at \$250 an hour) to perform MA board member duties for property management of the Community common areas. A vote "Yes" would put individual board members on notice that if they consult an attorney to answer questions they can find answers to by reading the charter documents or by group discussion, or by using good judgement, they do so at their own expense. If the MA board, or any other board, uses the formally accepted HOA documents and other State and County legal resources, and obtains the majority vote of the General Members, then there should not be a need to pay an attorney for an opinion. Only in case of a 100% quorum by an individually signed motion of all MA board members (around ten) can an attorney be hired to perform extenuating legal requirements.

The MA board has repeatedly discussed this issue. Time after time motions are set in place to curtail the board members individually contacting the attorney. Yet it continues to be an issue. A member vote would confirm the need for discretion in attorney use. The 2010 MA Budget for Professional Legal Fees is \$24,000.

If you have any other questions please contact us at <mailto:sscommunityut@gmail.com>

MAKE YOUR OPINION AND FEELINGS HEARD BY RETURNING YOUR BALLOT

RETURN DELIVERY: Your completed signed Ballot can be returned scanned via email to sscommunityut@gmail.com, or fax to 435-649-4668, or mailed to P.O. Box 980111, Park City, UT 84098-0111.

We will accept non-signed Ballots only via email if you type in all the owner information and if the email address is verifiable as belonging to the submitter.

Please return your Ballot as soon as possible as the purpose of this vote is to obtain as many responses as possible so the majority voice (66 2/3%) is represented.