



**SSSFHOA Board of Trustees Meeting
Minutes for April 12, 2010
Convened in Parley's Park Elementary School Media
Center at 6:35 p.m.**

Prior to the meeting Bill Gunter was standing in the Media Center Library talking to Suzanne Beck. When the Archers approached at 6:15 p.m. Gunter turned to Lucy Archer and yelled in her face, "You better not try to make a speech or discuss your group's proposals. If you do I will throw you out of here. I am warning you, I will not put up with you, I'll kick you out of this meeting." To which Lucy turned to her husband and stated, "Do you have the recorder on? Did you get that." Then Gunter repeated, "If you make any trouble I will throw you out, I am warning you right now." Suzanne Beck was in shock. The Archer's were not expecting Gunter to attack them, they hadn't talked to him since Gunter usurped the October 13, 2008 SSSF Election. Gunter does have a history of being a bully. Gunter backed off as other attendees arrived.

Board Members present: Gunter; Vice President James Larson; Treasurer Chris Butler; Secretary Harry Fuller, Richard Krebs, Brian Robinson, Kristian Mulholland,

Guests: Suzanne Beck, Clay and Lucy Archer, Lori Pratt Smith, Rick Lewis, Larry Moffit, Randy Cassidy, Ron & Janet Yokubison, Sue Pollard, Julia Loughlin, Kathy Higginson, Kate Riggs, Walter Lentz, Les Carriel, unidentified woman, Bill Noland, Ron Duyker, and Bookkeeper Lynn Cier, and a few others.

Minutes. Richard Krebs moved acceptance of the March 8 minutes. Treasurer Butler seconded the motion and it passed unanimously.

General Discussion.

Master Association Assessment - The meeting, attended by around 28 SSSFHOA homeowners, was devoted to discussing the pending 2010 SSSFHOA Budget increase and Silver Springs Master Assn. (SSMA) dues assessments. Gunter opened by explaining the SSMA additional capital improvement assessment of \$182 per residential unit is for gate repair and dam strengthening at the SSMA's small lake. He pointed out that such maintenance had been neglected for at least 30 years, long before the SSMA gained the community's two ponds in 2004 from Mountain Regional Water District without the acceptance vote by the Community Members.

Around May of 2008 the MA board discussed that they had accrued \$80,000 in a CD for the Little Lake repairs, and expected to have perhaps up to \$40,000 more by the end of 2008. The 2010 capital improvement assessment is for the same Little Lake work. The whereabouts of this CD has not been accounted for. The MA has not had a certified audit since 1990 when it was started.

Attending to the necessary work now, he explained, is essential to assure that the small lake dam's integrity will withstand deterioration causing possible collapse which would inflict serious damage on adjacent homes. Using contemporary materials, he further said, should defer further major, costly maintenance for 20 to 30 years. The dams are composed of soil and rock materials, any work on them will be of the same materials. The assessment, then, he concluded, is an attempt to maintain the lake's infrastructure long term.

The State Engineer's Office has provided a letter with eight items that need attention. The condition of the pond/lake structure is considered moderate. The Silver Springs ponds do not have active water or water activities that cause buffeting on the beaches so there is very little danger of a breach. Further the lake dams are actually the northern shore properties of both lakes. [NorthShore lots 1-4 and 6-12, Park Place lots 38-44, Silver Springs lots 47-49 and 193-199, and SouthShore lots 1-11 and 50-60 and LL-SLS lots 1-4 surround the Little Lake, of these however NorthShore lots 1-4 and 6-12 and SouthShore Lots 1-11 back lot property are the actual dams.] See the letter and aerial photo of dams at:

<http://www.silverspringscommunity.com/lakes-in-silver-springs/silver-springs-dams/>

Treasurer Butler added that similar necessary work was done on the large lake in 2005-2006 and that, at that time, there was little objection to the tiered \$250 assessment. Or was it unacknowledged objection?

Homeowner Clay Archer said a review of SSMA minutes disclosed that when the SSMA acquired the two lakes, the water company included a [check for \\$32,000](#) for the lakes' repairs. Mountain Regional had received a study by Klinefelter Engineering showing the necessary work on the outlet drains and gates and an estimate of cost from Cross Marine. The MA collected \$201,050 from the homeowners and Mtn. Regional in 2005. The published cost of the repairs was around \$145,000. He suggested that before the additional assessment is imposed, the affected homeowners should be provided a full accounting of how those funds were used. He claimed a previous call for formal audit of SSMA finances from Skip Domenick and Michael Winer have not been honored. Since, he said, there is no SSMA accountability, no audit of SSMA finances for 20 years, and an \$80,000 CD that is unaccounted for, and no vote by the Community Members, "how about refusing" to pay the current additional capital assessment until the audit and the vote have been accomplished?"

Gunter answered that "this is the wrong venue" to answer Mr. Archer's statement, but he said that during the time he has represented the SSSFHOA on the SSMA board of trustees beginning in January 2010, spending by the SSMA has always been done appropriately, without fraud or theft. In 2010 no MA Budget information has been provided or discussed at the SSMA meetings. See [MA Minutes](#). He added that SSMA is attempting a public audit report, relying on another SSMA board of trustee's member, Steve LoRe, with accounting experience to produce it. Using professional accounting firms, he said, could cost as much as \$20,000 to \$50,000 for a 20 year audit. The SSMA 20 year manager, Robyn Bailey, has not kept appropriate records. The SSMA will need to pay Wells Fargo between \$2,000 to \$5,000, depending on how many years of databases they have to search in order to provide to LoRe monthly statements for the audit.

Janet Yokubison said the homeowners do have the right to know where dues paid to the SSMA went and for what, saying that Clay's asking for such accounting is a valid question.

President Gunter confirmed that, in 2004, along with the lakes, the SSMA received ~~\$35,000~~ \$35,000 from the water company and that alone would be inadequate to cover the small lake project's estimated at \$120,000 cost.

SSSFHOA homeowner Lucy Archer said the SSMA has accrued \$80,000 as of May 2008 in a CD, for the small lake work. The [Little Lake](#) is essentially a private body of water as platted in 1990 with a perimeter enjoyment easement deeded to the 25 homes. See [Private Enjoyment Easement Agreement](#).

Bill Noland, SSSFHOA representative (though he is not an elected trustee) to the SSMA (making two from SSSF) and current SSMA board of trustees president, said there is no evidence such a

CD ever existed. Ron Duyker, the man who is on record as discussing said CD with Jerry Romero during an SSMA meeting in 2008 was asked to comment. Duyker said nothing.

Homeowner Kate Riggs, after thanking the SSSFHOA board of trustees for the time they devote to assn. matters and for the explanation in the dues notice why the annual dues have been increased from \$175 to \$357 for the SSMA and from \$75 to \$105 for the SSSF, totaling to an invoice amount of \$462, said now, considering current economic difficulties, is not the time for any increases. Saying, "Some of us are just barely getting by," she asked that homeowners be notified of annual dues amounts earlier in the year and implored the board to rescind the current increase as the SSMA had not followed the MA charter rule to hold a vote from the property owners, so it was not an approved assessment. While she said she realizes the lakeside members enjoy the SSMA's lakes, equal access to them does not exist, further contending the SSMA is imposing the additional \$182 charge without calling it a "special assessment for capital improvements," implying it avoids bylaw requirements that special assessments must be voted on by all affected homeowners. She contended that when dues go up, they never come down. She said she vigorously opposes the additional SSMA charge, concluding the SSMA should adopt a "tiered assessment" plan like the one imposed in 2004, which would charge lakeside homeowners more for lake maintenance.

Gunter said there is probably never a good time to increase association dues, but now is the appropriate time for the assn. to do so before something really costly happens within assn. boundaries which would require an extraordinarily high special assessment. [The sky is falling and everyone will need new umbrellas.] He explained the \$30 increase is supposed to help start a budget reserve, a financial fallback the assn. currently, at some peril, lacks.

Secretary Fuller explained that while the board would normally send out dues notices earlier than it did this year, it did not have all the necessary facts and figures to finalize the budget timely enough to do that and, in fact, had, for instance, repeatedly asked the SSMA what its budget would require from SSSFHOA this year and just as often was told the SSMA was also awaiting delayed spending estimates. The SSMA members were to vote on the 2010 Budget at the "Annual Meeting" on February 9th. The attendees obvious protest at the announced SSMA \$357 assessment was so complete that the SSMA board did not call for a vote on the Budget by the General Members in attendance but instructed the trustees to bill their property owners anyway. SSSFHOA Bookkeeper Lyn Cier confirmed this.

Treasurer Butler stated that his request for a \$30 increase amounts to 8 cents a day. He further explained that the SSSF assn.'s current bylaws prevent supporting "tiered assessments." The detail is that the SSMA is making the assessment not the SSSFHOA. The SSMA can amend their Articles of Incorporation, however, to provide for the 126 condos to pay an assessment for the tennis court, the General homeowners to be assessed for the Park and other Common Areas, and for the lake view owners to pay for the lakes.

Gunter adding that he is not clear that the SSMA can enact a tiered system, pointing out that an SSMA ad hoc committee has been formed to examine the question. In 2005 the SSMA did tier their assessment for the big lake repairs.

Lucy Archer said that, according to SSMA and SSSF assn. CC&Rs, the board is required to inform HOA members before approving a "special assessment for capital improvements and Article V states the members must be allowed to vote." She also said the "[underdrain system](#)" which collects and carries underground water away from the community, was disapproved by the homeowners, deleted from the CCRs in 1985 and discussed and disapproved again in 1994, but now the 2009 and 2010 assn. officers are spending \$6,500 a year to solve problems on individual lots that the SSSF CCRs indicate is the individual homeowners' responsibility. These problems are affecting "a few people." Archer then asked the 28 people in attendance how many of them had ground water flow problems. Ron Yokubison, Rick Lewis, Bill Noland, and Chris Butler raised their hands. Butler admitted that a sump pump handles his problem.

Gunter answered that the SSSFHOA board of trustees did, in the past, attempt to deny its responsibility for the [underdrain system](#), but that the Summit County attorney and the assn.'s own counsel found that effort had no chance to prevail. Conversations with these same authorities and others were interpreted differently when discussed with full details.

Mr. Archer, after asking what became of the survey of homeowners, taken to determine how many homes were affected by underdrain/ground water problems, was told by Gunter roughly half of the assn's members responded to the survey and that actual and potential high water threats to basements and crawlspaces were identified. Pressing further, the number responding was not the same as the number affected; Gunter did not disclose that number.

It should also be noted that the reason that the Homeowners voted to abandon the underdrain system is because there was not complete proof of where the system existed, whether it was necessary since the completion of the storm drains, etc. and because it would serve to collect and drain away landscape water from lawns and trees importantly during the crucial summer months.

Treasurer Butler said work done on the system last year with "roto rooters" indicate obstructions caused by invasive vegetation root growth can be corrected, with a decent probability that high water threats can be prevented. Of course there are roots and debris in the system, it was built around 1978-1979 only in parts of the subdivision and then was abandoned as superfluous as the storm drains, sewer lines, drainage ditches and creeks throughout the neighborhood more than adequately have handled run-off. Some properties have been built over artesian springs, which cannot be remedied with French drains throughout the neighborhood.

Homeowner Rick Lewis asked if someone could obtain a map of the underdrain system and was told by Bill Noland that 37 percent of the system has been mapped, but that no one really knows where some other sections are located. The [underdrain system](#) maps are available online at <http://www.silverspringscommunity.com/utilities/water/underdrain-system/> and more particularly at <http://www.silverspringscommunity.com/wp-content/uploads/ss1a-underdrain-system-1979as-built530px.jpg> and <http://www.silverspringscommunity.com/wp-content/uploads/ss1b-underdrain-system-1979proposed530px.jpg>

Les Carriel, a homeowner and former SSMA lake committee chairman, concerning dues being raised but never reduced, that the \$250 assessed for large lake and tennis court repairs was "one time" and not reinstated after the funding it provided paid for that work. The capital improvement assessment is an additional \$182 this year making the SSMA invoice \$357.

Homeowner Suzanne Beck asked if SSSFHOA dues will ever decline. Gunter said that could happen when a satisfactory reserve is created. Satisfactory to whom?

Mrs. Archer said the SSMA annual dues had been \$75 up to 2000, then went up to \$125 until 2004, then were raised to \$175, and have remained that amount. The \$175 SSMA per household assessment has remained since 2004, adding that the SSMA was never properly established, but was created by the subdivision developer as requested by the County as a trade-off for his building permits. The Articles of Incorporation were recorded but the Bylaws were given in draft form to the new board. The vesting of authority from the individual subdivisions was never transferred and the bylaws were never completed, signed, or approved by a vote of the Association Members. Consequently, the SSMA isn't legally constituted or formed, and their authority to issue assessments is in question. See [letter from 1989 WBE President Larry Eichner](#).

President Gunter answered that the SSMA attorney has assured that it is legally organized and

constituted according to state law and entitled to collect assessments for its established purposes. Other attorney's for individual subdivisions have stated otherwise. The SSMA bills the individual subdivisions so it cannot lien individual homeowners. The SSMA can remedy their status if they discontinue being in denial.

It should also be noted that the SSMA did not include their attorney Ted Barnes' remarks on [April 13, 2010 Minutes](#) regarding this issue. All that is recorded and published is "(1) **Informational Meeting with Counsel from 6:00 pm to 6:45 pm.**"

Homeowner Sue Pollard suggested there should be a way to assure that the additional assessment is used specifically for small lake repairs; Gunter answering that could be done through earmarking. But no one knows whether it will be as the SSMA does not disclose its budget items, income or expenditures in detail. See [MA Budgets](#), there are no monthly updates as had been the practice up to January 2009.

Board member Richard Krebs observed that the additional assessment was based on contractor bids and Mr. Noland added that the assessment will not cover the entire project cost, that the necessary additional amount will be drawn from available SSMA funds. When Mr. Krebs asked how much repair the State of Utah requires, Mr. Noland said the repairs are to be done within three years of the state's notice and that the SSMA will comply by doing as much as it can afford to do. When asked how much the dam lies on private land, he said the Master ownership around the lakes varies but the dam crests are Master owned and the slopes as they reach their back lot line base level tend to dip into private property.

The Summit County Recorder stated that the enjoyment easement land is still deeded to the original developers SSA, Inc. As the surrounding land passed title the enjoyment easement around the Little Lake became a black hole, or in other words an ownerless parcel.

When homeowner Walter Lentz asked what happens if residents don't pay HOA dues, Gunter said it hasn't been a serious problem, but that, if absolutely necessary, "I suppose liens can be imposed," but everything is done to avoid that. Bookkeeper Cier confirmed that only four members are delinquent from last year.

Mrs. Archer reiterated that the SSMA cannot collect assessments, but can only require that its member HOAs do that. And since the SSMA is not in compliance because that board did not obtain the 66 2/3% necessary vote by the General Association Members that the assessment is not legitimate.

Janet Yorkubison asked about the reported condominium assns. dropping out of the SSMA; Gunter answered that SSMA counsel advises since they were participating as de facto members they can't now claim they were improperly required to join. Actually, a couple of the condo/ Townhome subdivisions are not named in SSMA docs and have had very little participation in the SSMA. The SSMA documents make no provision for membership or resignation.

When Mrs. Archer said the homeowners have the right to dissolve the SSMA, Gunter asked what would be the alternative to that. Mrs. Archer then presented the Community Group proposal, saying the condo HOAs would gladly assume responsibility for the tennis courts; the lakeside homeowners could form their own HOA for taking over the lakes' maintenance; South Shore HOA could manage their contiguous south berms, and the little pond; the park and other common area properties could be cared for by the General homeowners. She speculated the large lake would cost the lakeside owners no more that \$250 a year and would, therefore, actually be less costly for them. Gaylynn Mooney has repeatedly reported that \$8,000 for chemicals annually is all she requests from the SSMA Budget.

She claimed over concern about dam collapse is "fear mongering" in an effort to scare the Members into unquestionably paying lake assessments. The lake is a stagnant body of water.

There are no motorized water crafts. There is no wave motion beating on the shores. The dams are the northern shores of both lakes and are predominantly the private property and homes themselves of NorthShore Lots 1-13 and SouthShore Lots 1-12. See [Dams](#) webpage for aerial photos, plat maps, and further information.

[NorthShore lots 1-4 and 6-12, Park Place lots 38-44, Silver Springs lots 47-49 and 193-199, and SouthShore lots 1-11 and 50-60 and LL-SLS lots 1-4 surround the Little Lake, of these however NorthShore lots 1-4 and 6-12 and SouthShore Lots 1-11 back lot property are the actual dams.] See the letter and aerial photo of dams at: <http://www.silverspringscommunity.com/lakes-in-silver-springs/silver-springs-dams/>

Ron Duyker, who identified himself as not part of the SSSF community, observed, nonetheless, that Mrs. Archer previously on July 25, 2008, without permission or authorization, recorded the SSMA's unsigned bylaws, and because they are unsigned, real estate transaction questions were created that can cloud every Silver Springs subdivision homeowners' property titles. "She tied us to the Master Assn., she removed deniability from the board" he added, "and now she is trying to say the homeowners should refuse to pay (MA) dues." He claimed she has no right to do this and, "You may be dealing with (the result)."

Mrs. Archer answered that Mr. Duyker has a long-time animosity against her and started "inflammatory" accusations when she began to ask questions regarding the inefficacy of the SSMA charter documents, the maintenance and manager's working without a contract, the condition of the Budget and financial accounts. Duyker sent out an inflammatory email to the SSMA board members after Mrs Archer was elected SSMA President about her having an "agenda ."

Gunter allowed Duyker's rampage to continue until he was exhausted by yelling, "Shame on you Lucy, Shame on you!". Then Archer told the audience, "This is the man that was discussing the \$80,000 CD with Jerry Romero at the SSMA meeting in 2008. Tell us Ron where is that money?" Duyker did not say another word. Archer continued trying to explain Duyker's accusations. At this point Gunter began shouting at Archer about disrupting the meeting, that he had warned her not to create any problems, that he was going to kick her out of this meeting, all the while it appeared that he was contemplating crawling over the table he was seated at, moving in Archer's direction. Board members on either side of Gunter grabbed a hold of him and pulled him back down into his seat. Archer told Gunter that he had given Duyker full reign to slander her in front of her neighbors and she was going to respond to his venomous allegations. Archer then continued to explain that as a SSMA board member and short-term president she had many concerns about the management of the SSMA and was removed from her post for asking questions of the board members. Before she recorded the 1990 MA Draft Bylaws she had repeatedly brought up this past due responsibility but Duyker repeatedly told her to "shut up". After Archer was no longer SSMA president and she could not gain the floor at SSMA board meetings she began to research by calling the State Board of Realtors, the Non-Profit Corporation Administrative Offices, a number of mortgage lenders and banks, title companies, the County Recorder, the County Assessor, etc. All told her that recording of HOA Bylaws was the correct course of action as it provided disclosure to all entities and to the Homeowners themselves, and protection from liabilities. What she concluded was that the SSMA board did not want to complete the Draft Bylaws, did not want them recorded so that they would not be held culpable to obey any rules and regulations, however by not completing and signing the Bylaws they did not receive or hold authority from the individual subdivisions and did not have authority to assess property owners. So the SSMA appears to have intentionally placed themselves in the position of not being legally formed.

Homeowner Randy Cassidy said the proceedings and Gunter's behavior had become "embarrassing," that while he was proud to live in the community, he thought the dues issue was being misused as an excuse for "fighting." The homeowners have a right to question the methods and authority by which the HOA's are being managed. Board officers have a duty to

listen to Member concerns and rectify actions that are inappropriately taken. He said, "we have a great neighborhood," and residents and the board should work toward solving problems rather than creating them and, as far as the lakes are concerned, neither the county nor water company own them now, rather, "we have them [through the efforts of a couple lake view owners] and we should deal with them."

The Community Group is an outcome of the many issues being swept under the table, with the 200% assessment being the catalyst to fetter out the problems and make appropriate remedies.

Richard Krebs observed that President Gunter and Bill Noland have been attempting to deal with such problems, especially the neglected repairs and that the emphasis should be on resolving all other SSSFHOA questions without assuming large legal costs.

Treasurer Butler said the assn. could have spent a fortune trying to close down websites. [Freedom of Speech prevailed.] "There are [now three of them](#)," he said. Instead of pursuing costly legal steps to close the website operated by the Archers, he said, he chose to start up his own domain in March of 2009, which is now online. Gunter and Fuller represented the SSSF board at a suit they brought against the Archers for their volunteer work and many monetary contributions to the Community website. Prior to the August 5, 2009 court hearing the court mediator proposed that the two parties make a compromise. Butler brought up the Archer's willingness to compromise as their admission of doing something wrong. The judge at the hearing found in favor of the Archers and stated that as far as he could see the only parties damaged were the Archers by the SSSFHOA board trustees.

Rick Lewis observed that, as a 20-year resident in the community, he concludes current issues run at least that deep. He said he heard two "excellent" suggestions: Someone needs to clearly explain the differences between assessments and dues and the websites should be used more effectively to provide assn. information for members.

Gunter reported that 60 people have signed up on the assn.'s formal website, and over 33,500 hits are recorded on the Community website at www.silverspringscommunity.com, and concluded by saying to the assembled audience, "your thoughts" will be delivered to the SSMA.

[See SSMA Minutes - Gunter did not present the Community Group proposals to the SSMA board on [April 13, 2010](#), nor on [May 11, 2010](#), nor any of the other discussion "thoughts".]

Treasurer Butler moved adjournment and, following unanimous approval, the meeting concluded at 8:10 p.m.

The next meeting was not announced.