

## Silver Springs Single Family HOA

### Board Meeting Minutes

August 5, 2014

The meeting was called to order at the St. Lukes Church, Park City, Utah at 6:30 PM. In attendance from the board were Bill Gunter, Rick Hovey, Rose Carriel, Mari Dougherty, Robin Bailey and Steven Fassett. Also present were Bill Noland as a Silver Springs member overseeing the underdrain system, and Kate Khaleel representing PMA. Owners present were Lucy and Clay Archer, Lyn Cier and Dwight Hibbdon.

Also present was Robert Rosing from Morris & Sperry representing the Association.

A motion was made, seconded and approved to accept the minutes of the July 1, 2014 meeting as presented.

Member input regarding November 2013 Election: Lucy Archer requested to be added to the agenda for tonight's meeting. Bill Gunter invited Dwight Hibbdon, the former HOA president, and Lyn Cier, the former HOA treasurer, to attend as witnesses. Lucy Archer disputes the results of the November 2013 election. Lucy Archer was given the opportunity immediately following the November 2013 election to review all of the ballots with Dwight Hibbdon and she did review all of the ballots at that time. Lyn Cier was present in the room during the review of the ballots. There was no proof presented at this meeting by Lucy Archer as to why the ballots were invalid. Robert Rosing, the HOA legal counsel, explained that per Utah Code Section 16-6a-713 the burden is on the challenger to provide the proof of ballot fraud. The HOA has accepted the ballots on good faith and only a court order can undo the results of the election. Since there is no proof offered, the matter is considered closed. Robert Rosing left the meeting.

CC&R's Compliance: The new fining structure was effective on August 1<sup>st</sup> and will make enforcement of the violations and issuance of fines more effective and aid in compliance.

Architectural Committee: Lot 35 (Legris) has applied to have three sides of their home redone with stucco. Steve Fassett will meet with them in the morning to finalize the allowed application of the stucco. The ARC rules state that no more than 30% of the home maybe covered with stucco.

The committee needs to review and redline the current ARC rules and present changes to the Board for review and adoption. This could incorporate new products such as metal roofs, solar panels and metal siding.

Underdrain System: Bill Noland and Bill Gunter met with Derrick Radke, Summit County Public Works Director, to discuss the agreement in place between the County and SSSFHOA. The goal was to affirm the agreement signed on the 25<sup>th</sup> of June, 1982 (Entry No 1S3367 Book M225,

copy attached to these minutes) was still considered the prime directive in regards to the underdrain maintenance. It was affirmed that this agreement is still valid. The HOA is responsible for the maintenance of the underdrain system. The discussion did involve the possibility of cost sharing with the County for some of the maintenance since the system does run under/near/over County infrastructure. A proposal needs to be written and submitted to the County for consideration.

The Alliance Engineering's bid for services related to the underdrain system was discussed (copy attached to these minutes) and reviewed. They have proposed a three phase approach but Bill Noland feels that this plan could be expanded into more phases to spread the cost out over several years. The priorities need to be identified and then further planning undertaken to set a timeline for the items. They did have the proposal reviewed briefly by resident Bill Loughlin (Loughlin Water Associates) and he felt that it was a good proposal. A motion was made, seconded and approved to the employment of Alliance Engineering with the scope of the project to be determined. Bill Noland will work with Alliance Engineering and present an estimate of the cost of the first phase. Each following phase will be approved by the BOT prior to any further activity by Alliance Engineering.

The discussion was held regarding what would happen if the underdrain system was not maintained and failed. The entire community would be affected and could return to wetlands. There are other possible solutions such as draw down wells. This will be incorporated in the discussions with Alliance Engineering.

A motion was made, seconded and approved to get a legal opinion from Ted Barnes regarding the ability of the HOA to enter private property in order to maintain the underdrain system. The underdrain system is not listed on any plat. Bill Noland will lead a focused discovery with Ted Barnes and let the Board know the estimated cost. The Board will vote via email to approve the cost.

Bill Noland addressed any concerns regarding his 'conflict of interest' as his property is one of the lots that the underdrain system directly affects. As the underdrain affects many residences and the community as a whole, the Board did not see that there was any conflict of interest.

New Business: The summer party was discussed. It was agreed that Rose would do the Costco shopping for 100 guests including hot dogs, brats and burgers. There would need to be 2 additional grills to be provided by Bill Gunter and Mari. Ice will be purchased that day. Chris Butler will provide the bouncy house. Rick Hovey's band will provide the music but will need to have a generator or electrical source. The park will be cleaned of dog waste by Bill Gunter and crew. Flyers will be posted (and have been mailed).

The next board meeting will be September 2<sup>nd</sup>.

There was no Master's Association meeting last month. The next meeting will be for a vote on the lining of the stream bed to eliminate water leak issue and to be able to equalize the lakes.

Bill Gunter has sold his house and will be resigning after this meeting. The community thanks Bill for his long service as a Board member over the years.

The meeting was adjourned at 8:55pm.

**Agenda for Tuesday, August 5, 2014**  
**Silver Springs Single Family HOA Board Meeting**  
**6:30 PM at St Luke's Church**  
**4595 N.Silver Springs Drive**

- Determination of quorum
- Meeting called to order
- Approval of July 1, 2014 Minutes
  - **Member Input regarding November 2013 election**
  - **CC&R Compliance**
    - Effect of new Rules & Regulations
    - Other issues
  - **Architectural Committee**
    - New applications
    - Other issues
  - **Underdrain System Status**
    - Meeting with Derek Radke-Summit County
    - Approval of Alliance Engineering proposal for Discovery Phase
    - Approval of legal opinion regarding rights of HOA contractor to conduct discovery and remedial work on the Underdrain system.
  - **New Business**
    - Summer Party Logistics and responsibilities (Saturday August 23)
      - Costco run for food
      - Poop Patrol
      - Organize children games
      - Bouncy Houses-Chris Butler
      - Cooking-charcoal-extra grills
      - Band set up
      - Cleanup
    - Other Issues
  - **Master Association Update**
  - **Schedule September (2nd or 9<sup>th</sup>) Board Meeting**
  - **Adjournment**



CONSULTING ENGINEERS

LAND PLANNERS

SURVEYORS

July 11, 2014

Silver Springs HOA  
c/o Bill Nolan  
[recon009@earthlink.net](mailto:recon009@earthlink.net)

RE: Silver Springs Underdrain System

Alliance Engineering, Inc. is pleased to submit for consideration the following proposal for services as outlined in the Invitation to Consultants for the Underdrain System in the Silver Springs Single Family Subdivision.

A dewatering system was installed by the developer of Silver Springs in 1979 to control the ground water levels. It consists of the installation of primarily 6" and 8" perforated plastic tubing in a gravel trench. Twenty-eight (28) access manholes were installed at intervals ranging from 200 to 600 feet. Two outlet locations were located in the field. A third outlet has not been verified and may have not been installed. Root invasion of the drain system has caused backflows and had to be excavated to repair and clean. Several attempts to video the pipes were mainly unsuccessful.

The HOA desires to locate the pipe system and access manholes, to conduct an inspection of the dewatering system pipes, and prepare recommendations on future improvements and inspection procedures to insure a properly functioning system.

The proposal consists of 3 phases as outlined below. The HOA may choose to amend and/or eliminate parts of the services proposed.

#### Phase 1 – Locate Manholes and Raise to Grade

Phase 1 consists of locating manholes and raising them to grade for future access. Manholes will be located using metal detectors and ground penetrating radar. Manhole adjustment to consist of the removal of the metal lid and replacement of a concrete top with a 24" manhole ring and cover for easy access. After manholes have been recovered and adjusted to grade, a survey of the manholes will be performed and their location relative to the road easements and the lots will be provided to the HOA.

#### Phase 2 – Pipe Inspection Report

Phase 2 consists of a video inspection of the pipe drains to determine their condition and location. A sending unit mounted to the video camera will establish its location on the ground

then surveyed and incorporated to the location map included with Phase 1. A report will be prepared of the condition of the pipe system and problem areas located and delineated.

Based on discussions with SBWRD and ProPipe, who have direct knowledge and experience of a portion of the drain system, a video inspection will have challenges that will need to be overcome. The drain line consists of perforated corrugated plastic tubing installed in a gravel trench about 8 to 10 feet deep. The installation of the pipe was not linear and consists of curved pipe within the trench width. This installation created difficulties in maneuvering a camera thru the pipe. In addition, root invasion created obstacles that will need to be overcome. We have been in touch with the manufacturer of the video equipment and they have indicated that they will assist us to determine the best or proper equipment needed and work with subcontractors. It must be noted that no guaranty can be assured that the entire system can be successfully inspected. Other methods such as excavation may need to be considered subject to the HOA approval.

### Phase 3 – Recommendations

Based on findings from Phases 1 and 2, we will prepare recommendations that require immediate action and provide long term maintenance recommendations.

We will work closely with the HOA during all phases of the work and adjust the scope based on findings and HOA requests.

### Cost of Services

We propose to perform services on a time and material basis with a not to exceed total price outlined below for each task without approval by the HOA. Subcontractor costs are estimated for budgetary purposes and will be billed on a cost plus 10% basis.

#### Phase 1 – Locate and Raise Manholes

Project management.....	\$1,500.00
Contractor coordination and inspections .....	\$1,500.00
HOA correspondence and discussion .....	\$500.00
Survey manholes and prepare exhibit.....	<u>\$5,000.00</u>
Sub-total.....	\$8,500.00

#### Subcontractor Costs

Raise manholes to grade....26 each @ \$1,000 .....	\$26,000.00
Ground penetration radar..... Allowance.....	\$1,500.00
Landscape and road repair allowance.....	<u>\$5,000.00</u>
	\$32,500.00

Total Phase 1            \$41,000.00

Phase 2 – Pipe Inspection and Report

Project management.....	\$3,000.00
Contractor coordination and inspections .....	\$3,000.00
HOA correspondence and discussions.....	\$500.00
Survey pipe system and update exhibit .....	<u>\$4,000.00</u>
Sub-total.....	\$10,500.00

Subcontractor Costs

Video pipe system..... 8,900 LF @ \$3.00 .....	\$26,700.00
Contingencies .....	<u>\$8,300.00</u>
	\$35,000.00

Total Phase 2      \$45,500.00

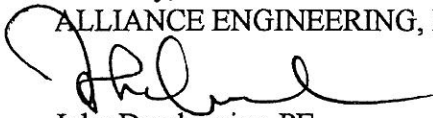
Note: Subcontractor costs are estimated for budgetary purposes.

Phase 3 – Recommendation Report Budget.....\$5,000.00

Summary Phase 1 .....	\$41,000.00
Summary Phase 2 .....	\$45,500.00
Summary Phase 3 .....	<u>\$5,000.00</u>
Total.....	\$91,500.00

Alliance Engineering appreciates the opportunity of performing services for you. If you have any questions regarding this proposal or require additional information, please contact the undersigned.

Sincerely,  
ALLIANCE ENGINEERING, INC.



John Demkowicz, PE

Attachment: Rate Schedule



CONSULTING ENGINEERS

LAND PLANNERS

SURVEYORS

**Hourly Rate Schedule**  
(Effective June 1, 2014 through May 31, 2015)

<u>Service</u>	<u>Per Hour Rate</u>
Principal Engineer	\$150.00
Senior Engineer	\$117.50
Senior Surveyor	\$100.00
Senior Land Planner	\$100.00
Office Surveyor	\$100.00 - \$105.00
Landscape Architect	\$100.00
Engineer	\$60.00 - \$80.00
Inspector	\$60.00 - \$70.00
Draftsman	\$60.00 - \$80.00
Secretarial	\$55.00
3 Man Survey Crew	\$180.00
2 Man Survey Crew	\$155.00
1 Man GPS Survey Crew	\$125.00
Reimbursable Expenses	Cost + 10%
Mileage (out of town jobs)	56 cents per mile

Computers and plotters are included in the rates listed above. Rates are effective through May 31, 2015.

X:\AE\Rate Schedules\Rate Schedule through June 2015.doc



## August 5, 2014 SSSFHOA Meeting Minutes

Underdrain System: Bill Noland and Bill Gunter met with Derrick Radke, Summit County Public Works Director, to discuss the agreement in place between the County and SSSFHOA. The goal was to affirm the agreement signed on the 25<sup>th</sup> of June, 1982 (Entry No 1S3367 Book M225,

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Lucy Archer talked to Derrick Radke on August 7, 2014. Lucy asked Derrick if he had found any documents during the last year that would indicate that the SSSFHOA held ownership or responsibility to maintain the under drains in the SSSFHOA. Lucy and Derrick had talked around a year previously when Derrick took over for Kevin Callahan as Public Works Director. Lucy had asked Derrick the same question. Derrick told Lucy he had searched the office on a number of occasions and had found nothing about the SSSFHOA underdrains. He said he did not find anything in the office computer files and nothing recorded.

Derrick then told Lucy that he had met with Bill Noland and Bill Gunter last week to discuss our under drains. He said they came with their rolled up maps and they discussed where to proceed with the underdrain work, and that was about it. He said he did not give them anything because he had not found anything. Derrick said he has never given Noland or Gunter any documents or letters of any kind.

Lucy Archer told this information to Rick Hovey on Friday, August 8, 2014.

Lucy Archer was surprised to read the above statement in the meeting minutes.

This is Archer's response to Noland's "prime directive" [Entry 193367](#) dated June 25, 1982:

July 3, 1979 "The Summit County Board of County Commissioners, after discussing the ground water problem, approves beginning of work on the Silver Springs Subdivision [East] with the following conditions...3) If any of the **drains fail within the three years, the developers will fix them at their expense.** 4) Notification will be given to buyers that basements will be **built at the owners risk**, foundation drains will be required for basements, and footings will be extra wide or placed in gravel.'

This covers 4) from the above statement, the notification the County required Vern Hardman, S.S.D., Inc. to record a "**Special Notice**" to builders and lot buyers telling them "that basements will be **built at the owners risk**, foundation drains will be required for basements, and footings will be extra wide or placed in gravel" with consideration to subsurface water conditions, etc. Recorded 7/6/1979 [Entry 157606](#).

(Note from Clay: This needs to be made very clear to the uninitiated reader/listener: The 1979 Silver Springs East HOA is the "Developer Association" and is in no way

associated with the Silver Springs Single Family HOA that will be formed in 1985 or the Silver Springs Master Association that will be formed in 1989-1990).

Most interesting was the careful reading of the 1982 Agreement between the Silver Springs [East] Homeowners Association (S.S.D, Inc. "Association") and by RDF Associates, Inc. ("Developer"), and Summit County recorded 6/25/1982. [Entry 193367](#) "NOW THEREFORE, in consideration of their mutual promises and covenants set forth hereinafter, the parties agree as follows:

1) *Responsibility.* Association [SSE - SSD, Inc. and RDF claiming to be the president] *hereby acknowledges and agrees that Association is and shall be solely responsible for maintaining the underdrain system in Silver Springs Subdivision Phases 1A and 1B, and such future phases of such subdivision as may be approved by the County hereafter."*

(Note from Clay: Again this needs to be made very clear: the 1982 Silver Springs [East] Homeowners Association is still the "Developer Association", RDF was claiming to be its president. Neither is in no way associated with the Silver Springs Single Family HOA that will be formed in 1985 or the Silver Springs Master Association that will be formed in 1989-1990 at which time our subdivision was dubbed the Silver Springs **Single Family** Homeowners Association.)

If the County approved commencement of work on Silver Springs Subdivision in July 1979 stipulating a **three year developer fix-responsibility** time frame and then three years later in June 1982 released the bond money to "**that** Association" president. That is a smoking gun that from 1979 to the present – 36 years later “**that** Association” no longer exists. The requirement to maintain the UD's was for three years and the County considered it fulfilled to the tune of releasing the \$150,000. bond three years from the date of the mutual promises. [Entry 193367](#)

Another search of the recorded Silver Springs 1A plat [Entry 157619](#) shows the *Legend* stating "8' wide non-exclusive utilities and drainage easement along all side lot and back lot lines as shown.....Lots grant 30' easements for interior roadway on which they abut. Lot dimension are to center of roadway." When you look at the plat and apply this information it is evident that there is no undeeded ground, no common areas. **The entire recorded plat is private homeowner property.**

The County Commissioners have already stated that it would be foolhardy to get involved by placing the under drains under the auspices of the HOA or the County. See Summit County Commission Minutes on this topic at:

<http://www.silverspringscommunity.com/utilities/water/underdrain-system/>

Submitted for inclusion as a correction to the August 5, 2014 SSSFHOA Minutes.  
By: Lucy Archer on September 2, 2014.

## August 5, 2014 SSSFHOA Meeting Minutes

### Minutes as written by PMA - Kate Khaleel:

Member input regarding November 2013 Election: Lucy Archer requested to be added to the agenda for tonight's meeting. Bill Gunter invited Dwight Hibdon, the former HOA president, and Lyn Cier, the former HOA treasurer, to attend as witnesses. Lucy Archer disputes the results of the November 2013 election. Lucy Archer was given the opportunity immediately following the November 2013 election to review all of the ballots with Dwight Hibdon and she did review all of the ballots at that time. Lyn Cier was present in the room during the review of the ballots. There was no proof presented at this meeting by Lucy Archer as to why the ballots were invalid. Robert Rosing, the HOA legal counsel, explained that per Utah Code Section 16-6a-713 the burden is on the challenger to provide the proof of ballot fraud. The HOA has accepted the ballots on good faith and only a court order can undo the results of the election. Since there is no proof offered, the matter is considered closed. Robert Rosing left the meeting.

### Minutes Corrections:

- Lucy Archer had been requesting a review of the election for a number of months.
- Lucy Archer also had made arrangements for Cier and Hibdon to be present.
- Lyn Cier was the paid bookkeeper for SSSFHOA from 2008 to the end on 2013.
- Lyn Cier was one of the two proxy ballot counters for said election.
- Lucy Archer provided eyewitness statement that she saw Sue Pollard briefly enter the November 13, 2013 Annual Election Meeting while it was in progress, Pollard was carrying white legal size envelopes she was seen giving them to Bill Gunter. These envelopes then were placed on the stack with the envelopes containing proxy ballots.
- Bill Gunter corroborated Archer's statement that Pollard did enter the meeting in progress to give him proxy ballots, then Pollard left almost right away.
- Archer stated that Dwight Hibdon told her before and after the said meeting that he/the board had started the meeting with around 30 ballots. He also wrote in an email to Archer estimating the number. The ballot count credited six nominees with 40 to 61 votes.
- Dwight Hibdon corroborated that he was surprised by the number of ballots counted at the end of the meeting.
- Dwight Hibdon told the BOT that he did in fact review the ballots with Clay and Lucy Archer after the election meeting. Lyn Cier was the only other person remaining in the room.
- While looking at the ballots it was noted that around half the ballots were marked in the exact manner. Six nominee names were circled; the same seventh nominee name was not circled. The ballot called for five votes therefore all the ballots with six votes were invalid as were all the ballots delivered to the BOT after the stated 5:00 p.m. deadline for submission stated on the ballots.
- Archer requested that Hibdon recount the ballots, omitting the invalid ones.
- Hibdon said he gave the ballots to PMA. PMA said Hibdon did not give the ballots to them. Hibdon then said he threw away the ballots. After leaving the 8/12/2014 meeting Hibdon told Archers that he might still have the ballots, that he would look for them.
- Attorney Rosing said the burdon of proof is on the challenger. The challenger has photos, has emails from Hibdon, has a copy of the ballot showing the voting instructions, has emails from a number of the twenty-two 11/13/2013 meeting attendees corroborating details, and has a list of Members who voted for her.
- Though Archer was on the agenda Gunter cut Archer off before she concluded her points.
- Archer has not requested that the election results be changed, only that the BOT recognize that the election was manipulated and that the election process needs to be fairly earned and free of deceit.