

## SSSFHOA ANNUAL MEETING AND ELECTION - 2008

**Bylaws are the rules and regulations adopted by a non-profit corporation (such as our HOA), instituted by its Members, for its internal governance.**

HOA Attorney Lincoln Hobbs: "...it is apparent from the description of events by all parties that **there are serious issues regarding the past and current governance of the Silver Springs Homeowners Association** which must be remedied and addressed at a meeting or meetings in the future." (November 6, 2008 letter to HOA Board)

HOA Attorney Lincoln Hobbs: "It appears quite certain, based upon conversations I have had with virtually everybody, that members of the Association Board have either **carelessly or willfully disregarded the Bylaws for a number of years**...I strongly recommend that the Association govern itself according to the Bylaws..." (November 6, 2008 letter to HOA Board)

The Silver Springs SF HOA Board had only five Trustees during most of 2008. The Bylaws call for seven Trustees. The former and current Board Trustees had been unsuccessful in recruiting additional members. Replacement members can be appointed. Trustees are to be elected. The Compliance Committee was without members for most of the year. The five trustees prior to the October 13, 2008 Election were as follows: Michael Winer (volunteer who "took over" in March 2008 for former president whose term had ended Oct/Nov **2007**, five months earlier; not elected as trustee); David Coehlo (elected as trustee two years ago, appointed as VP; term expired 10/2008); Sue Pollard (elected two years ago, term expired 10/2008, chose not to be on ballot); Bill Gunter (volunteered "six month ago", never elected, appointed as figurehead Treasurer); Lucy Murphy Archer (invited to join Board as webmaster, newsletter editor, and was appointed as secretary; elected by more than a quorum of Association Members in 2008, previously served for six years on SSSFHOA Board, c.1983-1989; elected 2008 as MAHOA president).

Coehlo, Gunter, and Pollard attended only four board meetings each during 2008. Lucy Archer performed her board duties, attended 100% of the board meetings, and worked on the preparations for the Annual Association Meeting by advertising the meeting in the newsletters, with flyers, and on the website, preparing a current roster of member addresses, preparing the proxy ballots, renting the meeting room, going door-to-door collecting proxy ballots, giving board members almost daily updates, recruiting Architecture and Compliance Committee volunteers, preparing refreshments, etc. Lyn Cier took the HOA insurance policy to the PCSD as part of the room rental agreement, and the HOA paid for this rental and all the printing costs associated with the Oct. 13<sup>th</sup> meeting.

Meanwhile the other four of the five Silver Springs board members, instead of pitching in to help waited for Lucy's efforts to fail "because no one shows up to the October meetings." When they saw that the Association was warming up to participation Gunter and Pollard began their conspiracy to ambush the meeting, notifying Lucy of their intentions only five minutes before the meeting commenced.

It is apparent that their actions demonstrated a blatant disregard for the Association members and the HOA Bylaws, while also exposing their dereliction of duty, and their abuse of Member trust,

furtive use of administrative power, and disregard for their fiduciary duty. Bill Gunter is on record as saying: “We don’t care what the Bylaws say; they are just old pieces of paper. We are going to do things how we want to do them.” (October 9, 2008)

HOA Attorney Lincoln Hobbs: (describing the ambush actions) “One of the first items of business was a motion made by a member of the *Board* and seconded by another member of the *Board*, and approved by a majority (three present with one objecting, and two proxies) of the *Board*, to address “irregularities” respecting the election.” This was an Association Meeting with a quorum of 81%, less than a dozen Members present agreed with the motions rendered. But Sue continued to read her script as if a majority had approved her motions. The accusations by Gunter and Pollard poisoned and decapitated the credibility Lucy Archer had from the Member attendees.

According to Sue and Bill’s motions, as written on their ambush script, they were going “to review irregularities, some of which pertain to the process of nomination procedure.” The review was requested from attorney Hobbs (at \$250 an hour). The irregularities nor the process of nomination have never been reviewed. The accusations were trumped up. Hobbs advice on the situation in general was received on November 6, 2008 in a letter that is provided on the website at: <http://www.silverspringscommunity.com/wp-content/uploads/attorney-hobbs-letter-11-6-081.pdf> and parts of his letter are quoted in the chart below. Gunter and Pollard’s motion did not nullify the election, which was then usurped. The motion was used to cast aspersions on the Annual Association Meeting and it was a slanderous ruse to steal the election.

At the November 6, 2008 board meeting (illegitimate meeting- see Article VI. Sec.2) the rogue members, two whose terms had expired and who had not been reelected, stated that Lucy’s adherence to the Bylaws was creating contention because the other four board members wanted to do things “their way.” Gunter made a motion to remove Lucy as board secretary and then made another motion to shut down the HOA website.

**Then these four rogue board members used the Association attorney, at Association expense (over \$8,000), to advise them on how to proceed to replace the legal October 13, 2008 election and cover up the slander against Lucy that they had contrived and presented to 74 Association Member witnesses so that they could get Winer and Pollard back on the board.**

What was truly revealed is the lack of knowledge and the former uninvolved of board officers Gunter, Pollard, Coehlo and Winer. They seem not to realize that the SSSFHOA Bylaws provide that nominations for office could have been made during the meeting and votes taken and added to the proxy ballots. The four had not attended the Oct 2<sup>nd</sup> regular board meeting where preparations were to be made.

The following chart compares our Bylaws to the so called “irregularities” from the Hobbs letter regarding the October 13th meeting and shows that the replacement meeting on December 15th, 2008 is rampant with irregularities, unwarranted expenses to the Association, and abuses of trust and fiduciary duty.

## COMPARISON OF THE ASSOCIATION MEETING AND ROGUE MEETING

SILVER SPRINGS HOA BYLAWS	OCTOBER 13 <sup>th</sup> Valid Association Meeting	DECEMBER 15 <sup>th</sup> Rogue Illegitimate Meeting
<p><b>Article III. Section 2. <u>Annual Meetings.</u></b> The annual meeting of the members shall be held on the second Monday in October, at the hour of 7:00 o'clock p.m. If the day for the annual meeting of the members falls on a legal holiday the meeting will be held at the same hour on the first business day following which is not a legal holiday <b>provided that</b> the Board of Trustees may by resolution fix the date of the annual meeting on such other date, as it may deem appropriate.</p> <p>(In 1971 the second Monday in October was declared a holiday, Columbus Day. Our Bylaws were recorded in 1985, providing this day as the official meeting date.)</p> <p>(North Shore HOA has the same Bylaws as Silver Springs, nearly word for word. They also held their Annual Association Meeting and Election on October 13 in an adjoining room at PPES at 7 PM.)</p> <p><b>Article III. Section 4. <u>Notice of Meetings.</u></b> Written notice of each meeting of the members shall be given by, or at the direction of the Secretary, by mailing a copy of such notice, postage prepaid, at least 10 days before such to each member entitled to vote, addressed to the member lot address unless a different address is supplied in writing by such member to the Secretary at least 30 days before any such meeting, OR by delivering such notice to the Member at such Member's Lot address. Such notice shall specify the place, day, and hour of the</p>	<p>The board did not change the date; therefore the established date of Oct. 13, 2008 was perfectly acceptable. Various e-mails, meeting agendas, newsletters, website postings and meeting minutes prove the Trustees expected Monday Oct 13<sup>th</sup> to be the date of the Annual Association Meeting.</p> <p>The motion to hold a "Special Meeting of the BOT" did not state or pronounce that the election was nullified. The usurping occurred as a result of the aspersions cast by this motion. The Special Meeting and review never occurred. The motions made by Gunter and Pollard were not approved because less than a quorum voted "aye" yet Sue Pollard continued as though a majority affirmed her motions.</p> <p>The meeting notice was on the homepage of the website since March 2008 and on monthly newsletters. A hot pink notice was delivered on Friday, September 12, 2008 to each Association member. And another on October 3rd. Deadline for delivery was October 3rd and was met.</p> <p>Hobbs wrote: "a number of the notices were hand delivered and others were mailed; ...hand delivery is</p>	<p>This meeting was planned following a series of highly wrongful activities.</p> <p>The first <b>wrongdoing</b> is that this replacement meeting is 60+ days after the regular Association meeting adjournment of the October 13<sup>th</sup> meeting.</p> <p><b>Wrongdoing</b> –. Usurping of the election occurred as a result of the aspersions cast on Oct 13<sup>th</sup> by Gunter and Pollard with less than a quorum voting "aye" and the majority sitting in stunned silence.</p> <p>Deadline for "Notice of Meeting" should have been November 5th if Bylaws were being followed. The <b>wrongful</b> delivery was November 14.</p> <p><b>Wrongful</b> added expenditures to the HOA for the cost of the 2nd Meeting:  Purchase large envelopes  Postage on envelopes - \$79.38  Cost to print 11/14/08 letter  Cost to print 11/14/08 cards  Postage on return cards - \$79.38  Cost to print 2nd ballot  Cost to print 2nd letter  Cost of more envelopes  Postage on 2nd envelope - \$79.38 on December 2nd  Postage for return - \$79.38</p>

<p>meeting.</p> <p>Also see: <b>Article XII. Association Rules.</b> .....”shall be presented at the annual meeting or mailed <b>or delivered</b> to all Members <b>at least ten (10) days prior</b> to the effective date thereof.”</p>	<p>arguably a better means of delivery..” Additionally around thirty notices were mailed to HOA members who live out of the area or have P.O. Boxes and/or no mailboxes  Hand delivery cost = Free  Personal pickup = Free  Rent PPES room = \$80 Cost to print meeting notices, cover letter, proxy ballot, survey, write-in notices and meeting agenda = \$74.81.  Approx Total Meeting cost = \$155. Approved and paid by the board. Over the years many board notices and communications with the Association Members have been hand delivered to each Members lot (home) address.</p>	<p>Approx. total printing cost = \$260.  (Approx postage for each mailing is:  189 properties X .42 = \$79.38 X 4 = \$320.)  Rent PPES room = \$80 Approx. goods Cost total \$675.  PLUS: Attorney = \$250.00 per hour X several hours. We asked the board for copies of Hobbs invoices and budget entries but were denied. The year-end budget shows that Legal Fees were around \$8,393.26 spent for this rogue election (\$11,329.66 for the year 2008).So not only did they steal the election they used the Association money to do it.</p>
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<p><b>Article III. Section 5. Quorum.</b> 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 Members in good standing present at such subsequent meeting, in person or by Proxy' shall constitute a quorum.</p>	<p>SSSFHOA has 189 Member properties. 50% is approximately 95.....</p> <p>120 proxy ballots were collected and tabulated by an independent Association Member and are valid for any adjournment of this meeting. Additional ballots were cast by some of the 74 Association Members “present in person” attending this meeting. This is a full Association quorum of 81% . Quite a successful endeavor.</p> <p>Legally, no entity has the right to nullify or cast aside a proxy ballot except for the individual Member casting the proxy ballot.</p>	<p><b>Wrongdoing</b> – Replacement of an Association meeting with a full Association quorum of 81% of Members participating cannot be commenced. This action is <u>not</u> supported by HOA Bylaws.</p> <p>Thirty-two Association Members and attorney Lincoln Hobbs attended this Dec. 15<sup>th</sup> meeting.</p> <p><b>Wrongdoing</b> - the rogues did not include the Oct. 13<sup>th</sup> adjourned meeting proxy ballots for this meeting.</p>
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<p><b>Article III. Section 6. <u>Voting.</u></b>  <u>When a quorum is present</u> 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.</p> <p><b>Article V. Section 2. <u>Voting.</u></b>  <u>Election to the Board of Trustees</u> shall be by secret written ballot. At such election the Members in good standing or their proxies may cast one vote per lot per office. The persons receiving the largest number of votes shall be elected.</p>	<p>Hobbs: “A proposed ballot and proxy was delivered with the notice....” and provided voting opportunity much like a city or county absentee ballot, which requires names, signatures, and addresses and for which there is HOA annual precedence. The Board secretary has copies of over a dozen former Association proxy ballots from past years that demonstrate the HOA ballot form and procedure. All of them require a Signature, Lot #, and Address of the Member voter. By law proxies have to be signed to protect from ineligible or duplicate votes. A resident who is also an accountant openly tallied the ballots during the meeting. Blank ballots were available at the Meeting and some Members did use them. Everyone nominated or volunteered was on the ballot. Everyone on the ballot was elected. Contesting the nomination procedure is a ruse to add un-nominated and delinquent individuals to the ballot. The candidates receiving the most votes rightfully should have become the seated trustees. By name they were Archer, Cody, Coehlo, Gunter, Larson, Shein, Zinn</p>	<p><b>Wrongdoing</b> - The rogue board members excluded the board secretary, who was still a board member, from all their Oct., Nov. and Dec. 15th plans and the processes that delineate her duties for Board and Association meetings, elections, and voting procedures.</p> <p><b>Wrongdoing</b> - These rogue board members gave the secretary’s duties to a non-board person.</p> <p><b>Wrongdoing</b> – The rogues Nov 6th motions included votes by an un-reelected trustee (Pollard), and a volunteer whose term had expired (Winer). The newly elected trustees in attendance (Archer, Cody, Zinn) abstained from the rogue motions for replacing the Oct. 13<sup>th</sup> election, etc .</p> <p><b>Wrongdoing</b> - The 120 proxy ballots from the October 13th election are valid for any adjournment of that meeting yet they were not counted by the rogues for the replacement meeting.</p> <p><b>Wrongdoing</b> - occurred when a non-resident, behind closed doors, secretly counted the Dec 15th ballots (attended by 32 Members). The rogues quashed the newly elected board members. In outrage one of the new board members resigned, another resigned later, and the others are immobilized by uncertainty.</p>
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<p><b>Article IV. Section 5. <u>Action Taken Without a Meeting.</u></b> The Board of Trustees shall have the right to take any action without meeting which could be taken at a meeting, if a consent in writing, setting forth the action so taken shall be signed by ALL of the Trustees.</p>	<p>The motions to undermine the Oct 13th meeting and election, and to ignore an 81% quorum Association participation and 120 ballots is a huge “irregularity” perpetrated by the rogues. Consent in writing setting forth the action was NOT taken, and therefore was NOT signed by ALL the Trustees.</p>	<p><b>Wrongdoing</b> - Carrying motions with a minority vote to undermine the Oct 13th meeting and election, and ignoring an 81% quorum Association meeting and election. Consent in writing setting forth the action was NOT taken, and therefore was NOT signed by ALL the Trustees.</p>
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<p><b>Article V. Section I. <u>Nomination.</u></b> Nomination for election to the Board of Trustees shall be made by a <b>Nominating Committee...</b> Nominations may also be <b>from the floor</b> at the annual meeting. The Nominating Committee shall consist of a Chairman who shall be a Trustee, and two or more members. The Nominating Committee shall be appointed by the Board of Trustees prior to each annual meeting of the members, and such appointment shall be <b>announced</b> at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.</p>	<p>Sue, Bill, Michael and Dave’s dereliction of responsibility and duty was the only “irregularity” hampering this meeting. Sue did not announce the appointment of the Nominating Committee at the Oct. 13th Meeting. Sue acting as “chair” did not call for nominations from the floor. Sue did not call for a vote from the floor. On Sept. 17th the Chairman for this Nominating Committee received an email from Sue Pollard saying she, Lucy, had been “suckered” into more work. Dave made no reply per Nom Com. Bill G. nominated himself and James Larson. Four new candidates were nominated by four separate individuals and placed on the ballot (Cody, Larson, Shein, Zinn) along with three returning members (Archer, Coehlo, Gunter) made seven candidates, plus two write-in candidates (Coursen, Winer), made nine total candidates. No other nominations were made. The call for nominations and volunteers</p>	<p>It was discussed and confirmed at the November 6th unofficial “board meeting” that a Nominating Committee and Chair had been approved on September 11th, giving the responsibility to Lucy Archer for the Oct 13th mtg. On Nov. 6<sup>th</sup>, Winer selected a new Nominating Committee himself, Bill Gunter, and Lyn Cier.</p> <p><b>Wrongdoing</b> - The rogue members in their mailed letters to the Association Members did not indicate they had appointed another Nominating Committee, yet this point was their primary accusation on Oct. 13th.</p> <p>A minor <b>wrongdoing</b> is that the Bylaws do not provide for postcards (cards, printing, postage runs around \$95.) to be distributed to collect nominations via mail. The mailed postcards produced two nominations (Butler and Mulholland) that Lucy had not previously personally contacted. For months requests for volunteers were in the monthly newsletters and on the website.</p>
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	<p>was posted in most of the monthly newsletters and on the website. Personal emails and calls were sent to more than thirty members. Michael Winer did not respond to repeated requests from the board secretary to declare whether or not he wanted to be on the ballot. He had told her previously on a number of occasions, Sept 15 the most recent, that he did not want to be on the board. After the deadline for ten-day notice, and after proxy ballots had been mailed and delivered he responded that “if it was necessary” he would be on the ballot.</p> <p>As a courtesy, his name was added to write-in candidate notices which were distributed to all Association Members</p>	<p><b>Wrongdoing</b> - Hobbs wrote: “I suggest that the Board...should deliberate...as to how to have the membership ratify and/or elect an appropriate number of replacement Trustees...” ignoring 81% participation.</p> <p><b>Wrongdoing</b> - On Oct. 13th, Lucy Archer received 97 Member votes and many kudos for the monthly newsletters and for her contributions with the expansive, informational website.</p> <p>After being slandered by the rogues on Oct. 13<sup>th</sup>, Lucy received 24 votes on Dec. 15th. A 75% loss of confidence because of the baseless allegations against her by the rogues.</p>
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<p><b>Article V. Section 2. <u>Voting. Election to the Board of Trustees</u></b> shall be by secret written ballot. At such election the Members in good standing or their proxies may cast one vote per lot per office. The persons receiving the largest number of votes shall be elected.</p>	<p>Blank “secret written ballots” were available at the meeting. Sue and Bill did not call for their collection or count by had been submitted at the meeting.</p> <p>Around 100 proxy ballots and 20 meeting ballots were received and tabulated by an independent person (a request made by Lyn Cier and Bill Gunter). These proxies are valid for any adjournment meeting of the October 13th meeting.</p> <p>A quorum or 50% of 189 Association lots is 95.</p>	<p><b>Wrongdoing</b> – The proxy ballots from Oct. 13th were not counted by the rogues. No one has the right to cancel the vote of a Member except for the individual Association Member themselves.</p> <p>Note that the replacement proxy ballot for the December 15th election requests the name, address and signature of the proxy voter, same format as the Oct 13th proxy ballot.</p> <p>The Oct 13th ballots state they are valid for any adjournment of that meeting and must be counted for a replacement election but were not counted by the rogues.</p>
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<p><b>Article VI. Section 5.</b>  <u>Adjournments.</u> The Board of Trustees may adjourn any meeting from day to day or from such other time as may be prudent or necessary, provided that no meeting may be adjourned for longer than thirty (30) day.</p>	<p>This meeting was adjourned on October 13, 2008 to Dec. 15, 2008; a period of around 62 days.</p>	<p><b>Wrongdoing</b> - This meeting was reconvened on December 15, 2008, over 60 days from the date of adjournment of the Oct. 13<sup>th</sup> meeting.</p>
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<p><b>Article VIII. Section 8.</b>  <u>President.</u> ...shall preside at all meetings of the Members and the Board</p> <p><b>Section 9</b>...<u>Vice President</u> to take over whenever the Pres shall be absent or unable to act. If neither the Pres. nor the V.P. is able to act, the BOT shall appoint some other Member to do so on an interim basis</p> <p><b>Section 10</b>:...<u>Secretary</u> shall perform such other duties as required by the Board, viz. when the president and vice president cannot perform their duties.</p>	<p>“President” Michael Winer stated that he thought the Oct. 13th meeting would not show a quorum so he did not think ”it would be a big deal if he did not attend.”</p> <p>Winer’s emails and agenda’s indicate he did approve of preparing for the October 13th meeting and that he was fully aware the Bylaws provided for the Association meeting to be held on the second Monday in October of each year. Winer had on a number of occasions stated he would only spend 1 ½ hours per month on HOA business; and that he did not want to be president of the board, and especially did not want to be on the MAHOA board. And he did not want calls or emails to his home, only via a generic email address.</p>	<p><b>Wrongdoing</b> - Michael Winer’s neglect to declare candidacy before the cut-off date, his absence at the regular Oct 2nd board meeting to plan the Annual Meeting, his absence at the Oct 13th Annual Meeting, and his failure to preside or to provide guidance or supervision, are all central to the contention and expense relating to this replacement meeting issue.</p> <p><b>Wrongdoing</b> - Sue Pollard did not attend the Oct 2nd Board Planning meeting saying she was done with the HOA board; Bill Gunter and Dave Coehlo also did not attend but did send attendance proxies.</p> <p>V.P. Coehlo advised Lucy to attend in case any Members showed up because the last newsletter included a recruitment invitation to attend the Oct. 2<sup>nd</sup> meeting and the many phone calls made to Members during the previous few weeks.</p>
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**What Can be the First Rogue motive?:** The first motive seems to be to elect candidates not on the first ballot due to their own neglect. Cronyism led to the ambush of the meeting with trumped up “irregularity” charges slandering the board secretary and the newly elected board trustees so that two of the rogues could be elected during a low attendance replacement meeting (32 attended the Dec. 15th meeting). The “review of the irregularities of the procedure for nomination” has never taken place. It was a ruse.

**Second possible Rogue motive:** May have been to add the underdrain researcher to the ballot, and remove board members in opposition to this project. To pass the underdrain system study and projected work, at a replacement meeting with low Member attendance. “**Article III. Section 5. 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...At which time it shall reconvene and **any number of Members** in good standing present at such subsequent meeting, in person or by Proxy' shall constitute a quorum.”

This underdrain system was part of the HOA responsibility when the subdivision was organized in the 1978-1982, but all reference to the underdrain system have been removed from the current HOA governing documents, and all Declarations of HOA CCR's prior to the 1985 revision were repealed by a vote of the Association members during their Columbus Day Annual Association Meeting on October 14, 1985. This work could potentially cost the Association members hundreds of thousands of dollars, yet would probably benefit only half a dozen homes. See at: <http://www.silverspringcommunity.com/utilities/water/underdrain-system/>

Also, on November 6, 2008 during an illegitimate meeting the rogues made a motion to shut down the Association website and remove the board secretary from her duties. This looks like an attempt to remove the notes, agendas and minutes of the Oct 13, 2008 election ambush and the extensive report page regarding the underdrain system.

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This document was produced in the interest of, and for the information of, the Association Members. When the Board of Trustees blatantly does not uphold the Association Bylaws that gives the Association members precedence to not comply with the CCRs then could occur a potential failure of the Association.

Send your questions or comments to [sssfhoa@gmail.com](mailto:sssfhoa@gmail.com)