

SSSFHOA Board of Trustees Meeting Minutes, April 12, 2010

The meeting, convened in Parley's Park Elementary School Library, was called to order by President Bill Gunter at 6:35 p.m.

Members present: President Gunter; Vice President James Larson; Treasurer Chris Butler; Secretary Harry Fuller, Richard Krebs, Brian Robinson, Kristian Mulholland, SSSFHOA representative to the Silver Springs Master Assn. Bill Noland and Bookkeeper Lynn Cier.

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

General Discussion. The meeting, attended by several SSSFHOA homeowners, was devoted to discussing pending 2010 SSSFHOA and Silver Springs Master Assn. (SSMA) dues assessments. President Gunter opened by explaining the SSMA additional assessment of \$182 a unit is for drain 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 lakes from the local water company. 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 assessment, then, he concluded, is an attempt to maintain the lake's infrastructure longterm.

Treasurer Butler added that similar necessary work was done on the large lake three years ago and that, at that time, there was little objection to the additional \$250 assessment.

Homeowner Clay Archer said a review of SSMA minutes disclosed that, when the SSMA acquired the two lakes, the water company included between \$35,000 and \$40,000 for lakes maintenance. 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 has not been honored. Since, he said, there is no SSMA accountability, "how about refusing" to pay the current additional assessment?

President Gunter answered that "this is the wrong venue" to answer Mr. Archer's statements, but he said that during the time he has represented the SSSFHOA on the SSMA board of trustees, spending by the SSMA has always been done appropriately, without fraud or theft. He added that SSMA is attempting a public audit report, relying on another SSMA board of trustees member with accounting experience to produce it. Using professional accounting firms, he said, could cost as much as \$20,000.

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

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

SSSFHOA homeowner Lucy Archer said the SSMA was provided a \$180,000 CD, from which \$120,000 is available for the small lake work.

Bill Noland, SSSFHOA representative to the SSMA and current SSMA board of trustees president, said there no evidence such a CD ever existed.

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 \$250 to \$280, 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. While she said she enjoys 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," implying it avoids by-law 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, which would charge lakeside homeowners more for lake maintenance.

President 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. 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. SSSFHOA Bookkeeper Lyn Cier confirmed this.

Treasurer Butler observed that the \$30 increase amounts to 8 cents a day. He further explained that the assn.'s current by-laws prevent supporting "tiered assessments," President Gunter adding that neither is it clear that the SSMA can enact a tiered system, pointing out that an SSMA ad hoc committee has been formed to examine the question.

Lucy Archer said that, according to assn. CC&Rs, the board is required to inform HOA members before approving a "special assessment." She also said the "underdrain system" which collects and carries underground water away from the community, was originally disapproved by the homeowners, but now the assn. is spending \$6,500 a year to solve problems it causes, problems affecting "a few people."

President 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.

Mr. Archer, after asking what became of the survey of homeowners, taken to determine how many homes were affected by underdrain problems, was told by President Gunter roughly half the assn.'s members responded and that actual and potential high water threats to basements and crawlspaces were identified.

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.

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.

Les Carriel, a homeowner and former SSMA member and president, commented, 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.

Homeowner Ann Beck asked if SSSFHOA dues will ever decline. President Gunter said that could happen when a satisfactory reserve is created.,

Mrs. Archer said the \$175 SSMA per household assessment has remained since 1974, adding that the SSMA was never properly established, but was created by the subdivision developer, and, consequently, isn't legally constituted and need not be paid assessments.

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.

Homeowner Sue Pollard suggested there should be a way to assure that the additional assessment is used specifically for small lake repairs; President Gunter answering that could be done through earmarking.

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 base level tend to dip under private property.

When homeowner Walter Lentz asked what happens if residents don't pay HOA dues, President 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.

Janet Yorkubison asked about the reported condominium assns. dropping out of the SSMA; President Gunter answering that SSMA counsel advises since they were participating as members they can't now claim they were improperly required to join.

When Mrs. Archer said the homeowners have the right to dissolve the SSMA, President Gunter asked what would be the alternative to that. Mrs. Archer said the condo HOAs would gladly assume responsibility for the tennis courts; the lakeside homeowners could form their own HOA for taking over the lakes; South Shore HOA could manage the berms; the parks could be cared for by the SSSFHOA. She speculated the large lake would cost the lakeside owners no more than \$250 a year and would, therefore, actually be less costly for them. She claimed concern about dam collapse is "fearmongering" and the lake is a stagnant body of water.

Ron Duycker, who identified himself as not part of the community, observed, nonetheless, that Mrs. Archer previously, without permission or authorization, recorded the SSMA's unsigned by-laws, 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.," 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. Duycker has a long-time animosity against her and started "inflammatory" accusations about "clouding titles." President Gunter concluded the exchange.

Homeowner Randy Cassidy said the proceedings 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." He said, "we have a great neighborhood," and residents 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 and we should deal with them."

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. "There are now three of them," he said. Instead of pursuing costly legal steps to close the website operated by the Archers, he said, the assn. chose to start up its own, which is now online.

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.

President Gunter reported that 60 people have signed up on the assn.'s formal website and concluded by saying to the assembled audience, "your thoughts" will be delivered to the SSMA.

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