

2010 April 13 MA Meeting Report

The MA board recorded the proceedings of this meeting and announced they would transcribe and post the Minutes on the website so I will only hit on some highlights. The MA board meetings are generally attended by a majority of the board and some lake view owners. Over fifty Members out of 504 attended this meeting. That was a terrific turnout and we were credited for our part in rousing interest from the Members. YAY!!!

The MA attorney Edwin "Ted" Barnes presented his version of the MA situation, legitimacy of their documents, and past activities of the MA board. Ted provided some very interesting insight into the workings of the MA, its duties, and its authority. There was a definite reply to whether the MA board could lien individual homeowner property. **NO.** The MA can only lien Common Area property. There is no provision or vehicle for liens from the MA to the individual Membership.

I made a request that an attorney for the side stating that the MA was not legitimate, and that the subdivisions could resign if inclined to do so, would be allowed in the future to make a presentation to describe why the MA could be interpreted as not lawfully formed, why the individual HOAs can resign from participation in the MA, and not pay assessments that had not been voted on by the General Membership, etc.

1990 MA DRAFT BYLAWS: General Members Article III 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.**

***The MA did not provide for, neither did they receive, any vote from the General Members to levy the \$357 special assessment for capital improvements for the Little Lake.**

Also educational were the audience comments.

One former MA president shouted on Monday night and again at this meeting, that the 2008 recording of the Draft 1990 Bylaws removed "deniability" from the board. It sounded like what he was saying was that the board "intentionally" did not complete their duty to form the MA by finalizing the Bylaws, voting on them, signing and recording them because they thought that as long as no Bylaws were completed or made public by recording, that the MA board could do whatever it wanted without being regulated by a set of rules. The board could "deny" that they were culpable. That was the "no rules" environment when the 2004 Lakes Conveyance Agreement was signed without Membership input or a vote, and, how the board issued tiered assessments in 2005. The MA board has shown no fiduciary duty to the Members and has had no certified audit for

twenty years. It was this same shouting man who is recorded as saying in May 2008 that the MA board had \$80,000 in a CD and expected to have \$120,000 by the end of the year for the Little Lake repairs. These are the same repairs that the Members are being asked to pay for with the 2010 assessment of \$357.each Who knows what else has been going on during the tenure of the MA.

Another interesting development: Bill Rusconi, former president of "The Springs" subdivision on Walker Court (behind St. Luke's) asked the question of whether or not his subdivision was still part of the MA. Noland said that they were **not** Members of the MA. Rusconi asked how that came to be because The Springs was a member (approximately from 2000 to 2006), attended meetings and paid dues, and then suddenly they were not members. Noland said he didn't know how they came to be excluded. Then Ron Duyker said that he had been involved on the MA board during that time and that because The Springs had been developed on what had been zoned as a commercial parcel, then a residential parcel, that it had been decided that The Springs would be ejected or excluded from the MA. Sounded like excuses for poor decision making to me.

I remember when I started to work on the website again in 2008, I was trying to figure out how many subdivisions were members of the MA. It was alarming how an 18 year organization had so little documentation or records while having around a million dollars of Membership money and several possibly litigious Common Areas to manage. After much prodding, the MA "manager" told me that The Springs had not been paying their annual assessments so they were dropped from MA Membership by the MA board.

I then asked Bill Rusconi and this is his reply: "For accuracy, The Springs never resigned from the master association. Rather, the master stopped inviting us to board meetings, or involving us in any decisions because we did not pay the back dues for vacant (and bankrupt properties) in our subdivision. As far as I am concerned, we are still a charter and voting member of the Master and no business could/should legitimately be conducted (including any dues increase) without our involvement and consent."

Tonight, after the latest events and a number of our flyers and emails, Rusconi finalized "The Springs" membership situation. Rusconi said that since the MA had arbitrarily eliminated "The Springs" from membership (then he turned to two other The Springs residents), and since we are a quorum here, we choose not to be re-instated to the MA. Noland said something to the effect that they would be welcome to re-join, to which Rusconi answered, "Yeah, I bet, now that you want that big assessment from each of us." They resigned and left the meeting.

The removal of this subdivision from MA participation also took place in the "no rules environment" and has provided support to the proposition that the MA cannot keep an individual subdivision in its clutches, and that membership is and has been a very unsupported process. **It would appear that if any of the subdivisions want to be out of the MA, then by merely withholding payment of MA dues/assessments they can be released from MA participation.**

While Ted Barnes was still in the meeting he was asked whether or not the MA could

again issue tiered assessments. Barnes was very emphatic that it would be practically impossible to add tiers after all these years. The MA would require more elegant CCRs (there are no MA CCRs) to address the tiered assessment issue, therefore the MA could not use tiers for various reasons, including the fact that some of the member subdivision's CCRs disallow tiered assessments.

After Barnes left, one of the MA Agenda items (7b) was the report from the Committee to Investigate Tiered Assessments, headed by new Ptarmigan President Bill Chambers. The board discussed the advice they had received earlier that evening from Barnes. Chambers was adamant that he could figure out a way to issue tiered assessments, disregarding Barnes advice.

Here is where we can see the beginning of a possible merging of ideas of how the neighbors I have been talking to can benefit from the rearrangement of the MA (if not the dissolution of it).

Here the member subdivisions have a number of options. The individual HOAs could resign participation from the MA just by not paying their MA assessments.

The Condos can agree to be responsible for the one tennis court and the surrounding grassy area. The annual assessment for that could be as little as \$25 per year per condo/townhouse. The second (north) [tennis court](#) is the property of Meadow Springs (directly next to the south tennis court.) so needs to be negotiated. This arrangement benefits the Condos/Townhomes to keep this property well-maintained. This would eliminate the large lake fees and the majority perception of Condo/Townhome owners that feel they are being unfairly assessed for lakes they can't or do not use, some say they did not know the Little Lake existed until they received the \$357 assessment.

OR... the MA could be organized into three sections. The first section could be the 126 Condos and the Tennis Court(s). The second section could be the rest of the Community; except for the Members in the third section could be the 54 lake view owners. They would be responsible for all the funding for whatever maintenance they think the lakes require. Outside of the catch-up maintenance by the MA since 2004 already completed, the Lakes Committee stated that they require an annual Budget of \$8,000 for chemicals and such. Divided by 54 becomes \$275 plus liability insurance and their projects. ETC. Many details can be sorted out by the participants.

The two lakes were transferred to the MA Members in 2004. In 2005 the Big Lake was refurbished at a cost of \$145,000. To date, the Big Lake expenditures are approximately \$180,000. The Little Lake has had minimal maintenance. In 2008 it was discussed that the MA had accumulated \$80,000 in a CD for the Little Lake maintenance. That CD is unaccounted for, the 2010 assessment is for this same work.

At the end of the MA meeting there was a proposal presented to the MA board by the owners of the large lake view lots SLS-1E-193, 194, 195, and 196. These owners would like to purchase the property from their back lot lines to the water or rip rap line, this is

the portion of the Enjoyment Easement that is contiguous with each of their properties. There was some dissent among the Members present; one former SSSFHOA board member remembered that there may be an agreement that precludes the sale of any transferred parcel. Noland asked Lucy to look through her SSSFHOA and MA files for evidence of this agreement. The MA will look further into the matter before responding.

All of the above situations are reasons why it is the perfect time to re-organize the MA, as the MA board has allocated \$24,000 in the 2010 Budget for Professional Fees (Legal Fees) to rewrite, amend, or start from scratch, the MA Bylaws and other ruling documents. This would be a perfect time to add the new restructuring language. Now we could add language to split the MA into three HOAs (Condos, General Members, Lakes) which accomplishes the same thing as tiered assessments without necessitating that the individual subdivisions change their CCRs from not allowing tiering, to allowing tiering in the case of the MA assessments. This would also go a long way to assuaging the pervasive hard feelings of the General Members regarding the Enjoyment Easement fiasco, the questionable occurrence and method of the 2004 Lakes Conveyance, and the unrepresented MA assessments.

The MA is looking at a \$5,000 expenditure to Wells Fargo to find and deliver the MA banking records from the bank's database (The manager did not keep copies of bank statements, etc.). Plus as much as \$50,000 for a certified audit. This audit may be completed without cost to the MA by two Community Members who have accounting experience.

I know all this is a lot to absorb but it is a very small part of what was discussed. I thought the above paragraphs would be the most pertinent to **what we are trying to accomplish in regard to streamlining the MA, requiring fiduciary duty to the Members, and a fair and equitable payment for Common Areas.**

One more thought. We keep hearing comparisons of payment of assessments for the lakes as comparable to retirees or couples without children paying for the schools and fire department, etc. There really is no comparison. Schools and services are in the public domain and available to all the taxpayers. The MA assessments are for privatized amenities not available to all the assessees. Not at all the same situation.

Never forget that as a Member of the Silver Springs Community the individual votes are what can change the way we govern ourselves. If you are unhappy with the lakes assessments then do something to end them. Now is the time. The various boards can function only according to the will of the property owners. **If you continue to insist that your individual subdivision boards follow your instructions to not send the MA your \$357 assessment money or not to participate in the MA at all then that is what has to happen.** And if individual subdivisions band together to resign from the MA, then that is what has to happen. The boards and managers work for you. The will of the people is the rule of the land. Make your voice heard loud and clear.

Hope this helps bring you up to date,

Lucy

P.S. Understand that I am not an attorney and that I am not giving legal advice. The information provided is for informational purposes only. Much more information is available on the www.silverspringscommunity.com website.