



**Silver Springs Master Homeowner's Association
Board of Trustees Meeting,
December 10, 2010, St. Luke's Episcopal Church 6:45 to 8:30 p.m.**

1. **Confirm Quorum:** 1) Quail Meadows I (Anthony Sands), 2) Silver Meadows (Phil Tisovec), 3) Rosemary Craighill (Meadow Wild), 4) Steve Lo Re (SouthShore), 5) Ptarmigan (John Buchhammer), 6) Park Place (Jeff Nielsen), 7) North Shore (Gaylynn Mooney), 8) Silver Springs SF (Ed Cody and Harry Fuller), 9) Willowbend East (Ray MacKown?),

Not Present: 1) Meadow Spring (Whit Logan), 2) Willowbend West (Mark Rasmussen),

Guests: Clay Archer, Lucy Archer, Linda Galindo, Les Carriel, Bill Noland, Lyn Cier, Robyn Bailey, Leslie Couvillon, Bill Cowley, five unidentified women (one from Silver Meadows), four unidentified men.

2. **Meeting Called to Order:** 6:45 p.m.

3. **Approve October 11, 2010 Minutes:**

4. **Standing Reports:**

a)

5. **Committee Reports:**

a) Common Areas - Noland – described the various parcels owned by the Master Association. See online maps and descriptions at

<http://www.silverspringscommunity.com/master-association/ma-common-area-parcels/>

Noland stated that Parcel B or 8 belonged to the SSMA. There is an August 1988 letter from the original owners attorney, Ryan Richards, naming that parcel as part of Park Place Lot 44. Quote:

PARCEL 8: Just as Parcel I is a discrepancy in the estimation of the location of the lakeline, Parcel 8 appears to be a discrepancy in the estimation of the location of the inlet stream. We believe it was intended, like at other lakefront areas, that the stream, the riprap and the buffer abut the adjacent parcel. Therefore, we decided to add Parcel 8 to the adjacent lot.

Female Homeowner from audience asked how the MA came to own these parcels. Noland answered that the SouthShore developer and the Silver Springs Water Company and Mountain Regional Special Water Service District transferred some of the parcels to the SSMA and some were merely remainder parcels (such as the berms along Highway 224) that were undevelopable.

The board at that time, advised by Robyn Bailey, chose to accept the parcels merely to have control over all land within and contiguous to the Master Association subdivisions. A number of the NorthShore wetland parcels were transferred from NorthShore to the MA in 2002. The Silver Springs property owners were not consulted nor allowed a vote on whether they wanted these parcels incorporated into the MA with their attendant liabilities, taxes, and maintenance costs.

Noland recounted that when the two large retention ponds were dredged the original intent was to help drain some swampy areas and to collect the water for use as lawn irrigation for the individual home properties. The ground under the large lake is the location of approximately a dozen artesian springs that contribute to the wetland condition. View close-up of Google Earth map that shows the lake drained in 2005-6 making these springs visible.

Noland continued that there has been a six-year debate on why and how the two Silver Springs ponds were transferred to the Master Association without a consensus from the MA board and without receiving the voted approval from the Silver Springs Homeowners. Noland defended the activism of the lake front owner's pursuit of pond-lake ownership because the 1980's to 2002 pond owners, the Silver Springs Water Company, and the subsequent owners Mountain Regional Water (2002-2004?), had not actively maintained the dam and outlet structures. Noland admitted that work on the small pond has never been done since it was dredged out 28 years or so ago. Concluding that the private small lake and its infrastructure have operated without interference by the SSMA, and could continue to do so should the suggestion from the Community Group and the Survey Ballot to transfer the small lake deed from the SSMA to the small lake view owners be conducted. Since the SSMA has already collected funds (twice) for the private small lake work those funds should be used to complete the proposed maintenance and transfer the deed.

The Enjoyment Easement around the perimeter of each of these two ponds-lakes had been advertised since 1981 as being open to all homeowners. When NorthShore homes began to be built in the early 1990's that was the beginning of the incoming homeowners' position that they did not want neighbors walking around the lake past their backyards and that the EE was private for their use only as written in [Barnes' 1989 Agreement](#). In past meetings the SSMA board disclosed that some of these homeowners had extended the enjoyment easement property beginning from their back lot lines to the water rip rap line thereby effectively eliminating perimeter access by the non-lake front property owners. During tonight's meeting Noland reversed his [February 9, 2010](#) easement ownership statement.

Separate from the maintenance reserve, Noland added that the Utah State Legislature has ruled that a Reserve Fund be reported every two years by non-profit organizations that hold property. This report will be reviewed to verify they have a Reserve Fund equal to 100% of one year's expenses. SSMA is currently funded at 68% for assets. The SSMA has listed in their responsibilities the parking at the park parcel and tennis court parcel though Noland does not see these areas as part of the SSMA charter responsibilities even though the parking is within the boundaries of said parcels. Les Carriel has recommended friends of his at Associated Reserve Consultants at 1173 South 250 West in St. George 84770-6392 (435) 656-5008 to assist the MA to plan the MA Reserve Fund.

[Reserve Funds in the Non-Profit Sector](#)
[Non-Profit Organization Infrastructure Checklist](#)

Returning to the discussion regarding the SSMA common area parcels, specifically the berms along Highway 224, Noland referred to the agreement with UDOT as “not worth the paper it's printed on.” Further instruction for SSMA direction for common area use and access is available in the Articles of Incorporation and the SSMA 1990 Bylaws that were adopted by the board in April 2009. “All three documents may be worked together” to create a new set of rules.

Noland said other Master Associations are working with a direct type of plan wherein the Master Association directly bills the individual property owners. This is the very scenario that is of [great concern to the homeowners](#) who feel that if the MA is sued, for reasons revolving around the lakes and common areas or the disenfranchisement of the property owners, etc., that this proposed direct line association to the MA would make each property owner liable for any legal expenses connected to the MA. The repercussions of the MA suing a subdivision or property owner would necessitate those parties to pay for both sides of the suit, double jeopardy, etc. Noland stated that other Master Associations directly billed the property owners in their various HOAs. When asked where these MAs were he could only name two, one is [Pinebrook](#) (the SSMA attorney is on the Pinebrook board), and the Daybreak subdivision close to Kenecott. <http://www.neighborhoodlink.com/Daybreak/home> who has quite a different situation.

b) [Resolution for Common Area Use](#) – committee composed of lake view property owners has put together rules for what can be done with or on each Common Area parcel. The board wants to have this information “only on their website.”

c) [Assessments](#) – “Working group” preparing the assessment changes have not met for three months and do not have a proposal to present. The Community Group has contacted group leader Bill Chambers on a number of occasions without his response to their ideas and property owner Survey Ballot results. The Community Group posted the results of the April 2010 Survey Ballot at <http://www.silverspringscommunity.com/wp-content/uploads/2010-7-13-ballot-w-tally.pdf>

Also assessment proposals are at:

<http://www.silverspringscommunity.com/dissolution-of-ma/ssma-assessment-proposals/>

d) [Meadow Spring/Meadow Wild Tennis Court](#) – Whit Logan continues to dodge resolution of transferring the adjoining tennis court or formally leasing it to the SSMA. The SSMA holds title only to the south most tennis court.

e) [Drainages within the Community boundaries](#) – Noland has had the various areas such as [Parcel V](#), and the center inlet stream (which he proposes to cement over), and other areas researched by attorneys (Craig Smith?) (Noland stated the attorney has reduced his fees by \$100 per hour – now \$150 an hour) (instead of using search officers from a title company?) The attorney has identified a few untitled or “black hole” morsels of land. (Such as [the Creek Easement Parcel](#))

It has been determined that the SSMA is not responsible for Willow Creek that runs between the condos and into the southeast inlet of the small pond. This creek is not on any Silver Springs agreement but was a part of the Summit Water, Silver Springs Water and Mountain Regional property that flows through our Community. There is a State Water Division rule that this water cannot be diverted.

f) [Berm development](#) - Noland asked for help to head a committee that will make plans to develop [Parcels R](#) and [Parcel J](#) into recreational areas for the Community. It was noted that the berm, added in 1988 after requests to UDOT from lake view owners, [see James V.Madden letter](#) owner of SLS-E-195, to block the view of the lake from Highway 224 passersby, has created a very narrow path from the Silver Springs north entrance at NorthShore to the south end of SouthShore. This area is problematic as [Parcels R](#) is narrow, steep, and runs parallel to Highway 224. It has been proposed that these parcels be deeded to the Snyderville Basin Recreation District for use as a trails connector area.

g) [Lakes Enjoyment Easement](#) – The EE running around the Little Lake runs with the land and the 1989 Private Enjoyment Easement Agreement is a valid Agreement from the developer to the purchasers of the lake front properties and their successors for the use and access of the perimeter of the lake. The six Little Lake homes located on the east border of the Little Lake along Silver Springs Drive are not included in this Agreement as these six lots were not part of the (Mike Barnes) developer’s property. The six Little Lake homes were annexed into Silver Springs Single Family subdivision in 1997. Does this mean that there is Member access along these six lots to the small pond? View at: <http://www.silverspringscommunity.com/our-community/silver-springs-sf/little-lake-at-silver-springs/>

The same situation exists for the Large Lake in that the seven homes along the east border are part of Silver Springs Single Family since the beginning in 1980 and were never part of the developer’s Enjoyment Easement Agreement. Therefore the 1989 Agreement does not guarantee use and access to lake front properties SLS-E Lots 192-199 <http://www.silverspringscommunity.com/wp-content/uploads/phases-a-e-color530pxxx.jpg>

At this point Lucy Archer asked if she could have clarified some information that has been a large concern of property owners for many years, she would like to use the map already projected on the screen. Noland gave her the floor. Archer clarified that the two lake dams are the north perimeter of each lake along with the homes on the north perimeter, Noland agreed; Archer clarified that the dam width was between 15 to 25 deep and included the private land of Lots 1-13 from their back lot line north including the homes themselves are part of the dam structure, Noland agreed; Archer clarified the location of the perimeter and across and under water easement land owned by the SSMA, Noland agreed; Archer clarified that some lake front property owners (Robinson, Hedges, Carriel, Fuller) had proposed to purchase the land from their back lot lines to the rip rap line of the water, Noland agreed adding that this proposal is on the backburner. There was a question of whether other lake front owners Lots 1-13 already owned to the rip rap line as had been discussed in previous meetings including the [February 9, 2010](#) MA Annual Meeting. Noland now stated that there are not any other EE owners. See 2009 survey maps at www.silverspringscommunity.com (use Search field) for encroachments, etc.

Archer outlined what she had posted on the website as her understanding of the situation until Noland cut her off in the middle of her summation question: "If the Easements belong to the Master Association, and the Master Association has authority only over the Common Areas, and if the Easements are Common Areas that are financially supported by all the Silver Springs property owners, then do all the property owners have a right to use the entire perimeter Enjoyment Easements of the ponds/lakes? So what is the answer?" Noland interrupted Archer's question remonstrating her with, "If you don't sit down right now I will have someone escort you out of this meeting." Archer was returning to her seat when Noland added, "And I am suspending your right to ask any further questions during this meeting until further notice."

Les Carriel then stood up and left the meeting. Leslie Couvillon and Bill Cowley also stood up and said to Archer, "We can't believe that he just stifled a serious request for an answer on this long standing question. He has no right to talk to you that way. We can see that nothing is going to be accomplished tonight that requires Member input or attendance. We are leaving right now!" And they also left the meeting.

NOTE: The purchasers of property in Silver Springs beginning in the 1980 era to c.1990 were told they **did** have entire perimeter use and access of the ponds/lakes for walking their dogs, bicycling, jogging, fishing, launching canoes, etc. [This is a link to the easement maps on the website.](#) Then in 1989 Barnes recorded the Private Enjoyment Easement Agreement and the new property owners were told the pond easements were private and solely for the use by the lake view property owners, thereby use and access was taken from the non-lake view property owners while still being required for over ten years to pay for maintenance, a manager-bookkeeper, liability insurance, repairs, and other MA lake related expenses, etc. The Silver Springs property owners [Survey Ballot results show that 91%](#) of respondents do not want to continue to pay for an "amenity" they are restricted from

using. They prefer the restructure proposal redirecting all lake assessments only to lake view owners.

6. Budget – posted at: <http://www.silverspringscommunity.com/master-association/budget-master-association/2010-ma-budgets/>

Link to [December 10, 2010 Budget](#).

The SSMA budget shows an annual Total Income of \$176,756.

Repairs and Maintenance annual cost \$30,664.

Professional (attorney) fees annual cost \$22,479.

-Not on the printed budget but asked by a meeting attendee:

What is the 2010 Carry-over from 2010 to 2011 – Lo Re responded: **\$165,000!**

In a month or two the HOA boards will again be billing the property owners for SSMA dues of \$175 per property totaling another \$88,000 or more.

What does the SSMA do with all the money they collect? Mow the Park lawn, spend the rest on the big lake.

A meeting attendee, man wearing an orangey baseball cap, asked that the SSMA Budget be broken down into more specific detail. **Property owners would like to know more about the income and expenditures of the SSMA.**

This same man also stated that since the \$135,000 bid for the little lake work is going to be considerably less than anticipated, that the board should not commingle the \$182 per property capital improvement assessment money collected, with the regular \$175 per property annual SSMA dues. The \$182 requires that the property owners vote on it and the SSMA needs to remedy that oversight, especially since the collected amount in 2010 will not be used until next spring 2011, and in light of the September board discussion to refund the excess collected back to the homeowners who paid it.

Clay Archer reminded the board that it is their responsibility to create and maintain an annual budget to be voted on by the property owners during the Annual Meeting for all the anticipated work the board proposes to do during the following spring, summer and fall weather. If more funds are needed for another project that work and assessment is to be approved in October and pursued during the following calendar year. Etc.

Noland stated that next summer there will be earth moving projects on the west side of the large lake and refurbishing of erosion at the northeast water outlet at the crook of [Parcel L](#). Admitting that the majority of expenditures from the SSMA budget are for the large lake repair and maintenance.

Linda Galindo (Park Place) restated the request that the SSMA board not commingle the two types of dues and assessments, “Keep it clean” she requested.

Lucy Archer said she had a number of questions for Noland. He said he would remove the restraint he placed on her participation if she would only ask one

question. Archer then asked, “Why the subdivisions HOA boards and the SSMA board felt they could circumvent the majority property owner voting procedure required for assessing to the property owners a capital improvement special assessment?”

Noland replied that the majority of the Board of Trustees constitutes a quorum for the transaction of business [1990 Bylaws. Article V. Meetings of Trustees. Section 3] and the board is authorized to generate funds by levying fees and assessments against the homeowners and guaranteeing the payment of such by liens, actions at law against the owners of Silver Springs properties, and etc. [1990 Articles of Incorporation. Article III. Corporate Purposes. Last paragraph.]

Archer then continued by saying that these documents are not to be followed by piecemeal but as a whole. **The 1990 SSMA Bylaws. Article III. Meeting of Members. 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 various individual subdivision HOAs charter documents, posted on the www.silverspringscommunity.com website, also require a vote of the property owners on matters of special capital improvement assessments.

If the board expects the property owners to adhere to all points of the Bylaws and other charter documents then the board should provide an example of also adhering to the entire contents of these documents. The boards cannot choose which Sections to uphold and enforce and which to neglect and abuse. Clearly the SSMA, the SSSFHOA, and other HOAs have a long history of acting to disenfranchise the property owners from participation and action within their respective HOAs.

It is of record that the Silver Springs MA and subdivision HOA boards did not conduct a vote to pass the special assessment, therefore the HOA boards failed to obtain the proper approvals for the collection of the special assessment for the privatized little lake work. Therefore, it is demanded that these HOA boards cease attempting to collect these assessments until the correct majority votes are obtained. All the Silver Springs Community HOA board members have received the tallied votes of the [Silver Springs Survey Ballot](#) that indicates clearly that the property owners do not want the special assessment and want the SSMA restructured in a manner that they do not have to pay any further dues, fees, assessments for “Common Area” properties or amenities that cannot be used by **all** the property owners.

A lady who identified herself as living in Silver Meadows stated that just during the last while the property owners in her subdivision were asked for the first time ever to vote on assessment matters. She would like this to be the established practice.

Noland concluded that the new Bylaws would make these issues crystal clear. He

ignored the question of whether the property owners would be allowed to vote on the February 2010 special assessment or if they would have any input on the content of the new MA documents. He did say the board expected to take action in 2011 against a subdivision that refused to become a member of the SSMA. There are also four houses on Quail Meadow Road and four houses within [The Springs](#) on Walker Court subdivision who are not SSMA members.

7. Website: The board uses a website with very limited information. It is maintained by Anthony Sands, a resident of Hidden Cove. When Anthony was asked if he ever uses the www.silverspringscommunity.com website he hedged on his reply, saying: “that site gives me sensory overload.” When asked if he thought the board was doing the property owners a disservice by not providing to them the choice to use either or both web sites he shrugged his shoulders. The Community web site has had 43,500+ hits since it was re-instated in March 2008. That seems to indicate the popularity of the Community website by the property owners who prefer and use it. Last time we checked there were around 22 registered users for the board web site.
8. Noland announced the Adjournment of the meeting at 8:30 p.m. He invited anyone with questions to meet with him afterwards. Clay and Lucy Archer stayed after to talk to Noland, and later with Sands.

Next meeting was not announced.

After the meeting was adjourned the Archers discussed some matters with Noland. Lucy asked Bill if the Water Companies or the SSMA had ever spent any money on the small lake for maintenance or repairs, as Clay’s research had not found any little lake expenditures. Noland answered, No, the work planned and deferred to 2011 will be the first work funded and undertaken by the SSMA.

See Compiled SSMA Income and Expenses from 1990 to 2010.

[Detail of Annual SSMA Income and Expenditures.](#)

<http://www.silverspringscommunity.com/wp-content/uploads/mhoa-compiled-income-expend.pdf>

Most of the million dollars collected since 1990 from the Silver Springs property owners has been spent on the large pond/lake.

[Had the [2008 SSSFHOA October election](#) not been usurped, Lucy Archer's election to that board, by the highest majority vote on record, then her two year term would end around this date. Lucy Archer was also elected to serve as SSMA president but was removed unceremoniously and illegally by conniving and long absent board members who had much to hide.

If the [2010 SSSFHOA October election](#) had not been manipulated and contrived by the board members who usurped the 2008 election then one or the other of the Archer's would still be elected trustees on the SSSFHOA board.]