

SS 2008 - June 5 Board Meeting Minutes



**Silver Springs HOA Board Meeting
June 5, 2008 at 6:30-9:00 PM in the Summit County
Library Conference room.**

Notice of this meeting was on the SS website calendar for a full month and notice was sent twice via Google Groups to eleven individuals on the Board and to some volunteers.

Board Members in attendance: Michael Winer, Lucy Archer, Bill Gunter, Sue Pollard

Board Members absent: Dave Coehlo, Gordon Jones, Paul Stangeland

General Members present: Clay Archer, Lyn Cier, Bill Noland, Skip Domenick, John Coursen

Michael Winer called the meeting to order.

AGENDA AS FOLLOWS:

1) UNDERDRAIN SYSTEM:

First order of business was the French drain or underdrain system built in 1979 or so in Silver Springs Phases 1A and 1B. Skip Domenick and Bill Noland have been actively monitoring, repairing, and researching this system. The particular reason for their concern this year is that a number of lots along E. Meadows Drive have been experiencing high water conditions. (Lots 27, 57, 65, 104, 105) A number of the residents have installed sump pumps and have been running them for a couple weeks. This condition does not occur every year. Skip and Bill have discovered that in May of 1979 the J..J.Johnson Company drew up maps for an underdrain system that was to be installed prior to the development of Silver Springs. The system lies in 8' to 10' deep trenches, fitted with 6"-10" corrugated, flexible perforated pipe. The pipe collects water that drains into Willow Creek. There are a number of manhole covers at access and junction points. Bill has located most of these manholes with the assistance of a 1979 parcel map produced of J.J.Johnson Engineering, but a couple access points (Lot 106) are still uncovered, though the storm drain has been found and contains 3'-4' of water in the pipes.

Silver Springs Communities area is well known as a high water table area. Summit County was aware of this when the subdivision was approved. S.C. bonded the developer for 3 years. The complete history and current ownership of this system is being researched to determine who legally owns it today and who has the responsibility for its recovery and maintenance. There is also a need to know where the S.C. owned surface storm drain lines run in correlation to the 'orphaned' sub-surface underdrain system.

The question of what is to be done by the HOA is unclear. It was agreed that as individuals the group of affected homeowners should continue to directly address the

water table issues on specific affected lots. It was further agreed that the HOA may not be required to assist until a professional legal opinion can be established stating who currently owns the underdrain system.

Bill Noland read from Article IX of the CC&Rs. Section 3 . Easements or installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat and over the rear and side five feet of each lot. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Bill made the point that the last line stating that each lot owner is responsible for those improvements on his lot for which a public authority or utility company is responsible is the crux of his query and investigation. The HOA needs to determine who owns the elusive underdrain system. Is it the original developer, the subsequent partners and developers, the water companies, Summit County or the SSHOA or the MAHOA?

On June 25, 1982 the SSHOA president/developer Raymond D. Fry – RDF Associates, Inc.- and Summit County signed and recorded an [Agreement](#) whereby the president of the SSHOA agreed 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 Summit County thereafter.”

This agreement then provided:

3. Release. Subject to any other conditions of such bond, County hereby agrees to release \$150,000. of the escrow being held by American Savings & Loan Association, which represents that portion of the bond designated for completion of the underdrain system in Phases 1A and 1B.

The three words added to CC&R’s Article VIII Section 1 (a) **“the underdrain system”** first appear on July 6, 1982 recording of the Amendment to Amended Declaration of CC&Rs for S.S. Development which was filed right after (pages 194-197] the above Agreement. The three words are then deleted in the February 8, 1993 Amendment and all subsequent amendments. So what happened in 1993? This could be a good place to begin our research.

The HOA also needs to know the extent of the underdrain/French drain system; is it under Phases A thru E or only under Phases 1A &/or 1B. What is the overall health of the existing system? Who is the true current owner?

The Board agreed that Bill Noland should head up an Underdrain Research Committee to find all documentation, to present to our attorney Lincoln Hobbs, so that he can provide

us with a defensible legal opinion as to the present ownership of the underdrain system to determine who is responsible for its maintenance and repair before the Board can commit to the enormous financial resources to trace, repair, and possibly expand such a system. The Board's primary concern is its duty to represent the interests, as well as the fiduciary obligations, of the all the SSSFHOA membership.

Bill was advised to begin with the SSSHOA website pages on the History of Silver Springs <http://www.silverspringshoa.org/history/> and <http://www.silverspringshoa.org/hoa-docs/1982-agreement-rdf-and-summit-county/>

Also the Waterways pages at <http://www.silverspringshoa.org/waterways/> and <http://www.silverspringshoa.org/waterways/lower-pond-plat/> and all HOA documents which are now fully searchable, at <http://www.silverspringshoa.org/hoa-docs/>

These pages contain names, companies, dates, documents, and events that may assist Bill and his committee in continuing their research.

We are trying to sort out and document the separate water systems in Silver Springs. There is a large pump house next to the basketball court at the Park that was to be the main source of the S.S. irrigation system. The irrigation pipes run along the rear of the lots but we don't know in what Phases.

Then there is the culinary water system, owned? by Mountain Regional. Would like to have a plat map of that system and docs.

Then there is the storm drain system owned by Summit County that is to be maintained by Summit County. Need much more info on that. So we do need a committee to sort all this out. Matt Lindon 655-0269 and _____ were on the committee before and must have lots of info.

Then there are the waterways (streams, creeks, retention ponds, lakes, etc.) that need documentation. Photographs of most of the sections have been taken by Lucy and are linked to the chart document on-line.

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2) LAKE MAINTENANCE:

The second water related issue was the manner in which the Lake maintenance costs and liability insurance premiums are assessed to the general membership without a vote or approval by the general MA membership.

MA By-laws Article III Meeting of Members,

Section 5A. Quorum. Fifty-percent (50%) or more of the [500] 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.

Also see our CC&Rs Article IV Property Rights in the Common Areas. There are only ten homes in Silver Springs that now have water front access to the large S.S. Lake. (Lots 47, 48, 49, 193, 194, 195, 196, 197, 198, 199). Including North Shore and Park Place there are maybe 28 home lots around the large S.S. Lake perimeter [11 on NorthShore, 10 Silver Springs, 7 Park Place]

Around 1991 the lake front homeowners hired an attorney and pressured the Silver Springs Water Company manager Lynn Stevens to sign over the Enjoyment Easement access to the lake resulting in making the large lake a semi-private amenity. The required approval by a majority of Association members was neither solicited, nor gained. It is also been brought up that the deeds for the properties around the small lake establish that the small lake is “for the exclusive private use” of the lake front property owner. The question is therefore posed whether the small lake front homeowners should pay for their private lake maintenance and whether the large lake frontage owners should be assessed for lake maintenance according to the 2005 Amended Developer-MAHOA Agreement or at an even greater percentage since they solicited and received the Enjoyment Easement around the large lake that had been made available for the general membership. The 2005 Amendment reads as follows:

2. **Common Area Cost.** Section 5(a) of the 1989 Agreement is hereby deleted in its entirety and is replaced with the following language:

“Each of the vacant lots, each single-family residence, and each condominium and townhouse shall be an assessable property for purposes of allocating common area expenses associated with the common area properties owned and/or managed by the Master Homeowners Association. For purposes of allocating common area expenses, the

Master Homeowners Association may, in its discretion, attribute a higher or lower common area assessment, depending upon the type and location of property as set forth below. In no event, may the Master Homeowners Association reduce or raise the common area assessments above the respective percentages that are shown below:

- (i) Condominiums and townhouses 100%?
- ii) Lots, single-family residences and townhouses, without lake frontage:....125%
- iii) Lots and single-family residences with lake frontage:..... 150%

Furthermore, Silver Springs Master’s Association agrees to take care of the *reasonable* maintenance and upkeep costs associated with the Lakes. However, this is subject to Lakes Conveyance and Water Supply Agreement, dated 06 /23/2004, between Silver Springs Master Homeowners Association and Mountain Regional Special Service District.

Our previous SSSHOA president did not sign the above named agreement but cooperated by assessing the SS membership a “homogenous” lake maintenance special assessment fee in the amount of \$220 per lot due by March 15, 2006 for the [“Goldfish Eradication Plan”](#) which cost somewhere in the amount of \$145,000. Summit County paid \$32,000, perhaps because they had just off-loaded the lakes, via Mountain Regional, onto the MAHOA, [knowing that the repair, maintenance, and liability insurance costs would be high](#). The MA did not ask for, nor did they gain the vote of the MA General Membership for this highly controversial transaction.

In addition the SSSFHOA dues were increased from \$150 to \$220 per year for lake maintenance. This annual amount added \$70 per lot per year to the \$105 SSSFHOA already had been sending to the MA, totaling more than \$33,000 annually (189 lots times \$175).

Michael again went item by item through the synopsis version of the MA 2008 Budget of over \$88,000 per year and could not determine why the MA has such large expenditures. Past MA President Jerry Romero and MA Manager Robyn Bailey have not been forthcoming with the invoice by invoice details requested.

It was questioned whether the Dev-HOA Agreement and the SSSF-HOA CC&Rs are in conflict with each other or whether the interpretation of the CC&Rs does not apply to maintenance fees assessed by the MA. It would be interesting to know how South Shore, Quail Meadows, and the other members of the MA handled this assessment. North Shore pays \$250 a year for dues, \$235 of their dues are given to the MA.

SSSFHOA CC&Rs:
Article III.

Section 3 . Voting Rights The Association shall have one class of voting membership which Members shall be all those Owners as defined in Section I.

This Section authorizes assessments but does not state that the recorded MA assessments should be “homogenized”.

Section 4. Special Assessments for Capital Improvements. In addition to the regular assessments authorized above, the Association may levy special assessment for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, or costs incurred for any other Association purpose, provided that any such assessment shall have the assent of a majority of the membership entitled to vote at a meeting duly called for this purpose. Written notice of such meeting shall be sent to all members not less than ten (10) calendar days not more than thirty (30) calendar days in advance of the meeting.

Section 5. Uniform Rate of Assessment. Both regular and special assessments shall be fixed at a uniform rate for all lots owned by members and may be collected monthly or at such other times as the Board may determine.

Sections 4 & 5 refers to the SSSFHOA assessments and not to the MA assessments.

A solution is possible by billing future assessments for any lake maintenance as a separate item on the annual SSSFHOA invoice to members. Therefore both documents are adhered to without eluding the purpose of one or the other document.

Another solution would be to amend both documents to the effect that lake maintenance shall be billed using two percentages, TBD, one for properties without lake frontage and one for properties with lake frontage. It is obvious that lake frontage properties are almost exclusively benefiting from these amenities and therefore should either pay for the major portion of cost for maintenance and insurance or, preferably, that the Lake Enjoyment Easement should be re-established allowing that the general membership of the MA Communities access to the entire perimeter of both S.S. Lakes.

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SSSFHOA owns the parcel of land on the corner of Meadows Connection and Silver Springs Drive. It is an eyesore most of the summer. According to Robyn Bailey, PC Greenleaf cuts the weeds once or twice a summer for free. A plan has been drawn up for its improvement. What action should be taken to improve it? Or should we deed it over to the MA? President Winer has approved receiving bids to improve this parcel as a site for a Silver Springs SF sign and rockwork that would greatly reduce weeds and maintenance. The SSSF sign would be in the same order as the Willow Bend, Meadow Will, or Quail Meadows, etc, signs.

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3) NEWSLETTER:

Skip was concerned that it was not the Board's place to advise the homeowners in our newsletter that they should look into their flood insurance, advise that Lucy printed in the newsletter. It was proposed that the newsletter be previewed "by a second pair of eyes before it is printed and distributed to the membership." Lucy agreed to post the newsletter as a draft on the website and to notify the Board via Google Groups that it was ready for their input. Each month Lucy sends out emails a week or so before each newsletter to petition for input, suggestions, articles, etc. to add to the newsletter.

Skip is also concerned that the SSSHOA membership list is available with password access online. We had one homeowner ask to be removed from the list, she was removed. We have had around 27 homeowners request the password and liked the idea of having the list on the website. This could be a good topic for the newsletter. We could make a form for a response, yea or nay, to having the list online. Or just have homeowners send an email with their vote. Actually a poll can be placed on the website. John was concerned that the poll could be tampered with but was told that the website has a record keeper that records and identifies each IP address of the computer accessing the site and the poll.

Bill added that he thought the newsletter was really bringing the neighborhood together.

Folks like to know what is going on. Skip added that he never put out a newsletter when he was president for three years but that he was impressed with the current effort and its impact.

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4) ANNUAL PICNIC:

The flyer insert for the June 20th HOA picnic was discussed. Sue thought it should not include the phrase “ Launch your canoe and bring your fishing pole – enjoy the lake” because the Board is sponsoring the picnic and if there is a mishap the Board might be held accountable.

Skip volunteered to provide two large tubs with ice for the drinks.
Sue and Lyn will not be able to attend.

Jim Harsch has volunteered to do the grilling and provide the charcoal and lighter.

Ron Shane has volunteered to help with set up and clean up.

Clay Archer will put up signs and balloons on the 20th as reminders to the members.

Lucy will buy all the food, drinks, paper products, etc.

Jerry’s children will not be in town so cannot help with the games.

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5) BUDGET:

Lyn Cier came in late but had a report on the Budget. She was pleased to report that only 24 homeowners are outstanding on their dues. She plans to send out letters to them.

Lyn and Michael have yet to move the HOA account to Home Savings but will take care of it this coming month. See Budget posted online.

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6) ARC Committee - report was next on the agenda. Sue did not have the requested list or written reports but gave a synopsis of the work in progress: Lot 1- the GC has been fired and replaced. Work should now be making progress. Four re-roof jobs are in progress. The Balls’ on Willow Loop are remodeling.

It was recommended that the Board should receive a written report each month for each ARC request and each Compliance action, as accountability is crucial to follow-up and if legal action is required. In 2000 the Board asked Barbara Carter to produce a form that should be used for this purpose. A copy needs to be provided at each monthly Board Meeting for the Board files and one copy will remain with the respective Committee for their follow-up.

COMPLIANCE:

John Coursen submitted a list of 16 homeowners who are storing their campers and boats in excess of 48 hours on their driveways in violation of CC&Rs Article X Use Restrictions

Section 8. Temporary Structures. No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently. No temporary structure, house trailer, mobile home, camper, or non-permanent outbuilding shall ever be placed or erected on any lot

AND ARC Guidelines:

Section 7, subsection (b) No trailers, mobile homes, truck campers or trucks other than pickup trucks shall be kept or permitted to be stored upon the property except in accordance with CC&R Article X Sec .9 .

AND

Section 19. Glass greenhouses for private use only are permitted as an accessory building. No temporary storage sheds or temporary structures such as horse-trailer, mobile home, camper, or non-permanent out building shall ever be placed or erected on any lot except with the approval of the AC and then only during construction. One small storage shed is permissible with proper AC approval. [CC&R Article X, Sec. 2d, 8l]

These violations are to be handled by the Compliance Committee. We all agreed that John will make a good chairperson, other members need to be recruited and trained to follow-up on compliance issues, especially in the spring and summer months.

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The meeting was adjourned at 9:00 PM

Next meeting will be held on Thursday, July 10, 2008 at 6:30 PM at the Park.