

Mount Shaddai Homeowners' Association

www.mvelshaddai.org

October 2006 Homeowners' Meeting Minutes

The 2006 meeting was held on October 14, 2006 at the EMS building in the Nantahala Township of Macon County, North Carolina. It was called to order by President Jerry Freudenthal at 1:00 PM. Jerry confirmed with the group that proper notice of the 2006 Annual Meeting was received.

Attendance/Proxies

24 lots were represented at the meeting. Additionally, valid proxies were received for 16 lots, assigned as follows. Note – 17 proxies were reported in the meeting, but it was discovered shortly thereafter that one of the proxies received at the meeting was from a delinquent lot owner. Therefore, that proxy was not voted.

Secretary	10
Jerry Freudenthal	1
Roger Mays	4
Rick Dittman	<u>1</u>
Total	<u>16</u>

Approval of Minutes

Jimmy Godsey requested modifications to the 2005 minutes including the addition of 2005 Attendance and Proxy information, deletion of the Whispering Springs report from Pat Zagers who did not attend the meeting, and mention of the \$6,000 loan made by Bob Liniger to the Association. A motion was then made to approve the 2005 minutes as modified for the above items. The motion passed unanimously.

Reports by Officers/Managers

Roads

Jimmy Solesby, primary contractor for roads and water, indicated that new construction is causing drainage issues. As a result of the drainage issue, two culverts are now exposed. Potential solutions were discussed but no conclusion was reached.

Carol Shanaberger read the Roads report from Bill Hughes, the 2006 Roads Manager, who was unable to attend the meeting. Bill indicated that several of the secondary roads need scraping, and that potholes are developing in part of the blacktop. He also indicated that there is an area on Rhododendron just before Hemlock where the edge of the road is being undercut. He also thanked Roger Mays for keeping the grass cut at the entrance and the meadow all year.

There was also discussion regarding the \$1,000 roads impact fee that was voted in at last year's meeting. First, the timing of the assessment of the fee was clarified as the date on which the footings are poured. Second, a few individuals questioned the legality of the fee. The possibility of asking our Association Attorney about this was mentioned. Discussion was then postponed until later in the meeting.

Water

Since Bob Liniger, the 2006 Water Manager, was unable to attend the meeting, the Water report was given by Tom McLean, Treasurer, and Jimmy Solesby, primary contractor for El Shaddai.

Bob has been unable to perform the water testing for several months. Jimmy Solesby has taken the water certification exam and is waiting on his test results. While he is waiting on results, the State has approved his performance of the monthly water testing under the auspices of Bob Liniger.

Follow-up to issue from last year's meeting – A camera was put down the well and it confirmed that the rust is coming from the well lining. A fix was put in place by the well contractor. However, Jimmy indicated that he is still observing rust in the water as well as a small amount of green tint right out of the main pump which could potentially be a small amount of ground water intrusion. However, all water test results have passed so there does not seem to be any compromise of water quality being delivered to the homes. Follow-up will be performed with the well contractor who performed the repairs to determine whether the problem has been fixed or additional work needs to be done. Tom McLean made a motion that a letter be written to the well company telling them we are still having problems with the well, and asking that they come back out and run a camera back down into the well for no charge to assess the status. Motion passed unanimously. Tom agreed to draft the letter next week.

Complaints were raised regarding significant amounts of rust in the water recently. Jimmy indicated that there was an incident where a significant leak that was not detected until most of the water drained out of the tank caused some of the rust that normally lays at the bottom of the tank to get into the water supply. This problem was an isolated issue and should not occur again as long as any leaks are detected and stopped quickly.

Additionally, a recent lead/copper test failed and new test results must be submitted by 10/31. Follow-up note – according to Dan Whitehouse, the 10/31 test passed.

Jimmy Solesby asked for information on the date each of the El Shaddai homes was built and the type of pipes used for each home. This will allow him to verify that monthly testing is being performed at the proper access points. The information was collected for all members present and will be provided to Jimmy after the meeting.

Treasurer's Report and Setting of Fees

Tom McLean, Treasurer, presented the Treasurer's report. Highlights included the fact that due to Cash Flow shortfalls in the past few years, Bob Liniger, the previous Treasurer, has loaned a total of \$7,800 to the Association. Additionally, there are additional amounts due to Bob for water testing services performed. Total amounts currently estimated as due to Bob Liniger are \$10,500.

Contributing to the cash flow shortfall are payment delinquencies of dues and assessments. Currently, delinquencies total around \$15,000, although about 60% of this amount is for 2006 dues, most of which should be collected by the end of the year. A discussion was held regarding the need to improve collection rates and the actions the Board should take in pursuing collection. It was decided that letters would be sent to all delinquent lot owners. To the extent that fees remain unpaid, liens should be filed and the possibility of using a collection agency should be investigated. Based on the numbers presented in the report, it appears that the Water system has been operating at a deficit of \$32,000 over the past seven years, while the Roads fund has operated at a \$14,000 surplus. Overall, the Association has operated at a cash flow deficit of \$16,000 for the past seven years. No separate Water or Road cash fund information was presented since these numbers have apparently not been tracked. A motion was made to allocate the existing cash balance to Water,

Road, and Administrative funds based on relative average cash expenditures for each of the categories and to track the funds properly going forward. The motion passed unanimously. Additionally, it was decided that further review would be performed of the historical numbers in 2007 to confirm their accuracy. One area of particular focus will be the individually large payments that are believed to have been collected from several individuals who paid to be connected to the water system.

As of 9/30/06, there was \$12,272 in the bank. Known upcoming expenditures total approximately \$3,700, leaving \$8,500 available cash. Given the \$10,500 we owe Bob Liniger, the Association's actual cash position would be negative once all the known obligations were paid for. The timing of repayment of the loans to Bob was discussed and a motion was made to pay him back over the next three years due to the current limited cash position of the Association. The motion passed with 23 in favor and one opposed.

Setting of Fees: A motion was made to set an assessment of \$30 per lot for 2007 to all lot owners to fund the 2007 repayment to Bob. The motion passed unanimously. A motion was made to leave the 2007 water fees at the same level as 2006. The motion passed with 22 in favor and two opposed. A motion was made to leave the 2007 roads dues at the same level as 2006. The motion passed unanimously. A motion was made to leave the 2007 administrative fees at the same level as 2006. The motion was voted on and passed.

The possibility of hiring a bookkeeper to handle the monthly accounting duties was discussed. However, it was determined that further time needed to be spent reviewing the books before they could be turned over to an outside individual.

Whispering Springs Liaison

Pat Zagers, Whispering Springs liaison, referred to the previous agreement that Whispering Springs would contribute money each year for the upkeep of main roads. She indicated that Whispering Springs would prefer to contribute loads of gravel rather than cash. She also mentioned that Whispering Springs had deducted damage done to a Whispering Spring road by an El Shaddai homeowner from a previous contribution. The point was made that these expenses may be more appropriately handled between Whispering Springs and the individuals who caused the damage rather than by deducting them from annual gravel contributions. Additionally, Pat mentioned that one stretch of road referred to as the "back road" needs work during the coming year. This road is shared by Whispering Springs and El Shaddai. Whispering Springs would like to use their annual contribution towards roads expense to help correct the issues on this road. The possibility of splitting the cost of fixing the back road 50/50 with Whispering Springs and instead using their annual contribution for the main road going through El Shaddai was mentioned. Final resolution of all these matters will be addressed with Whispering Springs by the 2007 Board of Directors.

Election of 2007 Managers

A motion was made to elect Roger Mays as 2007 Roads Manager. The motion passed unanimously. A motion was made to elect Dan Whitehouse as the 2007 Water Manager. The motion passed unanimously. A motion was made to form a Committee to rewrite the Covenants. The motion passed unanimously. A motion was made to elect Jimmy Godsey as Chairperson of the Covenant rewrite committee. The motion passed unanimously. Volunteers for the Covenant rewrite committee were requested, and Gloria Mays and Jeff Burger volunteered to serve on the Committee.

Lot Combinations

The lot combination discussion was initiated by Tom McLean. Background information was provide as follows: In last year's meeting, the membership voted for the Board to get a legal opinion on whether individuals who owned multiple lots were allowed to combine them into one lot and subsequently pay Association fees and assessments on only the one combined lot under the currently existing Restrictive Covenants. The Board went to the newly selected legal counsel for the Association, Ken Fromknect. Mr. Fromknect informed the Board that he was unable to consult with them on the matter because he was already representing one of the Association members and could not represent both parties. He referred the Board to another attorney, Steven Philo. After reviewing the Restrictions agreement, Mr. Philo provided the Board with a written opinion indicating that the Restrictive Covenants do not allow multiple lot owners to combine lots and as a result pay only one fee. A copy of this opinion was distributed to the Association members along with the notice of Annual Meeting.

A long discussion was held regarding this subject and many different opinions were presented. Two members who own multiple lots and desire to combine their lots had obtained legal opinions indicating that they could combine their lots under the current Restrictive Covenant agreement. A final resolution was not reached at the meeting. However, it was suggested that this topic be incorporated into the Covenant re-write project. The 2007 Board of Directors will work with the rewrite Committee in an effort to re-draft and/or amend the Restrictive Covenants, to be presented to the membership for a vote.

2007 Meeting

A motion was made to hold the 2007 meeting on October 13 at the EMS building in Nantahala Township of Macon County North Carolina.

Election of Directors

A discussion was held regarding the number of individuals that should be elected to serve on the Board of Directors. The Bylaws indicate that any number between three and seven may serve. It was decided that if there were enough volunteers, the maximum number of seven would be elected. The following individuals were nominated: Michael Effre, Sarah Effre, Dan Whitehouse, Roger Mays, Jimmy Godsey, Tom McLean, Rick Dittman, Joyce Whitehouse, and Torrey Johnson.

Voting ballots were distributed and the following individuals were elected as Directors:

Dan Whitehouse	Sarah Effre
Michael Effre	Tom McLean
Rick Dittman	Torrey Johnson
Roger Mays	

There being no further business, a motion was made to adjourn the meeting; Jerry Freudenthal adjourned the meeting.

Respectfully submitted by,

Sarah Effre
Secretary of the Homeowners' Association