

**Minutes of Meeting of the Executive Board of
Somerset Estates Homeowners Association (SEHOA)
June 21, 2022
Mountain View Fire Station, Niwot CO**

- 1. Call to Order and Quorum** - The meeting was called to order at 6:32 PM. Quorum met for Executive Board meeting with Scott Abrahamson (SA), Anthony Chirikos (AC), Steve Lehan (SL), and Paula Hemenway (PH) present. Pea Lawson (PL) was absent.

Property Manager present – Al Orendorff (AO)

ACC member present – Bob Uhler (BU)

Homeowners present – Marc Arnold, John Rademacher

- 2. Approval of Prior Meeting Minutes** – MOTION to approve minutes from the Meeting of the Executive Board on May 17, 2022 made by SL, seconded by AC, no further discussion, approved unanimously.
- 3. Treasurer’s Report** – Report attached. We moved \$35,000 from First Bank operating account to Capital One reserves account after reviewing cash balances. Most delinquencies have cleared. We are well ahead of our YTD expense budget, although most of the favorability is because of temporary timing issues as capital expenses budgeted through May have not yet been incurred.
- 4. Quiet Title Update** – PH reported that the SHOA Board at its June 8 approved the Disclaimer to ownership in the outlots in Somerset Estates with a small modification that it reserves any rights which it may have in easements of record, if any. MOTION to authorize SEHOA attorney Scott Osgood to proceed with the Quiet Title Complaint made by PH, seconded by SL, no further discussion, approved unanimously. Legal expenses to date in 2022 total \$3600. Mr. Osgood expects the entire process to be completed for less than \$6000.

5. Property Manager’s Report –

- The Hydrologiks system is now functioning and calibration will be completed this week. They’ll show us and the Boulder and White Rock (BWR) ditch rider how to operate online to control the gate and how to operate mechanical override. With the metering system operational, we can start taking water from BWR ditch.
- We have been taking water at 10” from the Boulder and Left Hand (BLH) ditch to fill the ponds and irrigate. This is all free river run water so far.
- GTL tested the new transfer line from Pond 1 in SHOA to Pond 2 in SEHOA and water moved at 172 GPM, more than twice the prior rate.
- GTL is still working on completing the connections to irrigate along Longview Dr down to Bellflower Ct, so that SEHOA is completely separate from the SHOA system. GTL is also adding a second valve on Primrose to allow us to water along the new paved path. Once all the connections are made, GTL will fill the holes and GTL and RSL will start checking the sprinkler heads.
- We put 34 fish into Ponds 2, 3, 7, 8, and 9 to keep algae down. Algae in Pond 8 needs to be addressed.
- AO is still looking for an alternative to Aquatics Environmental to treat the water in the streams to control vegetation growth.

- Rosewood Electric has started work on the street monument electrical. GTL is refining a bid to bore a new electrical line to the Strawberry monuments.
- Flowers are installed.
- Paving of four asphalt paths off Strawberry, Cranberry, Coralberry, and Cattail is complete.
- We need to ask Boulder County to repair a heaved sidewalk section on Longview Dr.

6. Lot Easement Policy – Proposed Change to Paragraph on Fencing

As discussed at the May 17 board meeting, proposed changes to the paragraph on fences in the current Lot Easement Policy were published in two What’s Up prior to this meeting. The effect of the proposed change is to shift responsibility from the association to the owners for fences on lots that back to public areas such as pathways, open space and common properties. Email input was received from the ACC, two prior board members, and the property manager. Each expressed concern that the change would result in poor and inconsistent maintenance of fences that are a visible reflection on the community.

SA asked for comments from those at the meeting prior to board discussion. BU said that the ACC is concerned that it will have difficulty enforcing maintenance standards if the owner is doing the maintenance. They are also concerned about patchwork appearance in maintenance and stain color. The ACC discussed the definition of common property and concluded it means what was installed by the developer. They also think that the special assessment passed in 2021 implied a long-term maintenance program for the perimeter fences. The ACC would like to publish its position before a board vote is taken. Marc Arnold also expressed concern that in 10 years the perimeter fences will decline in appearance and contrasted this to the uniform appearance of the SEHOA-stained fences on Somerset Dr and Longview Dr that reflect well on the neighborhood. He thinks there would be a consensus in the neighborhood that a uniform appearance is worth funding and that access by the association onto individual lots for maintenance can be voluntarily given by the homeowners. Both agreed that association maintenance of the perimeter fences is consistent with the mission of SEHOA to maximize home values and position Somerset Estates as a premier community.

MOTION to adopt the attached amended paragraph on Fencing as part of the Lot Easement Policy adopted on February 25, 2020 made by SL and seconded by AC. Board discussion included AC stating that while it is certainly true that homeowner maintenance of the perimeter fences may result in an aesthetic decline, the conclusion of a review of CCIOA, the Declaration, and information from legal counsel is that the association doesn’t have a legal right to decide that it “owns” improvements on individual lots. SL stated that if the standard is whether association maintenance increases the value of homes, the association could argue that it should maintain other improvements on lots, such as roofs, but that this constitutes a transfer of common funds to private property. The definition of community property is generally real estate owned by the association; what the developer installed or intended is not in any legal document. PH noted that the issue is not whether owners with perimeter fencing will voluntarily agree to allow the association onto their property to access the fences for maintenance, but whether it is allowable to use common funds paid by all owners for such purpose. When the board approved the current policy in 2020, it relied on the notion of having an “implied easement” for the perimeter fencing on individual lots. However, the attorney’s explanation of such an implied easement was that the improvement was installed primarily for the benefit of the community and had been historically maintained by the association. Neither is the case for the perimeter fencing that is not on Somerset Dr and Longview Dr; for example, SHOA in the reserve study conducted in 2014 excluded all such fencing. While there is a community benefit to well-maintained fencing that is seen from public spaces, there is also a homeowner benefit and the fact that the responsibility has been debated for many years is an indication that the community benefit is not exclusive or even primary. PH also noted that homeowner insurance policies cover fences as a separate structure, so if the association were to assert responsibility for such fences, it would need to double-insure them.

After no further discussion, MOTION was approved unanimously.

7. **ACC Update** – BU reported that the ACC has not yet done a routine inspection this year. Clarification on the fences is needed to know whether to include vegetation issues on lot fences in inspections. BU reported on some common property issues it has received complaints about or noticed.

8. **Social and Welcome Committee Update** – None.

9. **Other Business** –

- SA reported that he has spoken to Brent Wheeler at Boulder County about an easement for the Niwot Loop Trail on the east side of Somerset Dr. Mr. Wheeler is checking on whether any funds are available. We'd like for them to extend the fence so there is only one trail (now there are two social trails), as well as bridge the culvert, add signage, etc. This will be pursued further once the Quiet Title action is complete.
- Kamla Chopra asked whether she could provide articles on the local real estate market for What's Up. CCIOA does not allow the use of HOA distribution lists for any commercial purpose, so any such article would have to be of general interest and not identified with a particular business. PH to reply to Kamla.
- Boulder and White Rock Ditch Company (BWR) has distributed a call for bids for 7 shares of Class A, B, and C Stock. Seller wants at least \$10,000 per share. Bids must be returned by July 14, 2022. SA to discuss possible value, seniority of the shares, and any issues with our water attorney, Star Waring. BU urged the board to try to win this bid as rare opportunity to acquire more ditch shares. Marc Arnold suggested submitting a split bid with a higher price for a portion of the shares. AO will ask the ditch company if this is allowed. MOTION to authorize SA to sign the bid sheet(s) for up to \$100,000 total aggregated bid amount for the 7 shares, with the precise bid amount for each share to be determined based on information received, made by SL, seconded by AC, no further discussion, approved unanimously.
- AC suggested that we remove a large bush next to the big boulder near the top of the waterfall to expose the boulder. He also suggested that the Canadian Cherry trees along Somerset Dr need to be pruned. AO to follow-up.

10. **Member Open Forum** – Marc Arnold noted that some stop signs have been “egged” and requested that someone contact Boulder County to replace or clean.

10. **Next meeting** – Executive Board meeting on Tuesday, July 19, 2022 at 6:30 PM. The meeting will be held by Zoom as a number of board members will be out of town.

11. **Adjourn** - The meeting adjourned at 8:21 PM.

Executive Session – As allowed by CCIOA 38-33.3-308 (4)(b), an executive session was called to discuss advice from counsel relating to the legal review of legacy documents. Session called to order at 8:26 PM and adjourned at 9:00 PM.



Paula Hemenway, Secretary
July 1, 2022

Somerset Estates Homeowners Association - Treasurer's Report
Operating and Reserve Fund(s)
Balance Sheet and Summary Income Statement
May 2022

BALANCE SHEET						
As Of May 31, 2022						
	Operating Fund	Reserve Fund	Total			
ASSETS						
Operating/Checking Account						
FirstBank	\$ 49,688	\$ -	\$49,688			
Investment/Reserve Account						
Capital One	\$ -	\$ 449,450	\$449,450			
TOTAL ASSETS	\$49,688	\$449,450	\$499,139			
LIABILITIES & FUND BALANCE						
Fund Balance	\$49,688	\$449,450	\$499,139			
TOTAL LIABILITIES & FUND BALANCE	\$49,688	\$449,450	\$499,139			
Statement of Revenues, Expenses, and Changes in Fund Balance						
	Month of May, 2022			YTD May, 2022		
	Operating Fund	Reserve Fund	Total	Operating Fund	Reserve Fund	Total
REVENUES						
HOA Dues	\$4,235	\$0	\$4,235	\$124,275	\$0	\$124,275
HOA Violations & Fines / Late Fees	\$60	\$0	\$60	\$6,555	\$0	\$6,555
Special Assessment	\$0	\$0	\$0	\$0	\$2,500	\$2,500
Transfer Fees	\$0	\$0	\$0	\$750	\$0	\$750
Pond 7 Surcharges	\$500	\$0	\$500	\$1,000	\$0	\$1,000
Interest Income	\$0	\$179	\$179	\$0	\$860	\$860
TOTAL REVENUES	\$4,795	\$179	\$4,974	\$132,580	\$3,360	\$135,940
EXPENSES						
Administrative	\$2,435	\$0	\$2,435	\$20,180	\$0	\$20,180
Landscape Repair & Maintenance & Enhancement	\$5,168	\$0	\$5,168	\$19,285	\$0	\$19,285
Lights & Fence & Path & Pond Maintenance & Repair	\$17,021	\$0	\$17,021	\$17,858	\$0	\$17,858
Water & Utilities	\$12	\$0	\$12	\$1,609	\$0	\$1,609
Lighting Upgrades	\$0	\$0	\$0	\$0	\$0	\$0
Water System Infrastructure	\$0	\$0	\$0	\$0	\$0	\$0
Water Features (Ponds & Waterfall)	\$0	\$538	\$538	\$0	\$7,781	\$7,781
Water System Profession Fees (Project Mgmt. & Ops Manual)	\$0	\$0	\$0	\$0	\$0	\$0
Irrigation System	\$0	\$5,563	\$5,563	\$0	\$14,251	\$14,251
Hardscape (Fence & Paths & Monuments)	\$0	\$0	\$0	\$0	\$0	\$0
Softscape (Master Landscape Plan)	\$0	\$0	\$0	\$0	\$0	\$0
TOTAL EXPENSES	\$24,636	\$6,101	\$30,737	\$58,933	\$22,033	\$80,965
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	(\$19,841)	(\$5,921)	(\$25,762)	\$73,648	(\$18,673)	\$54,975
TRANSFER BETWEEN OPERATING FUND and RESERVE FUND	(\$35,000)	\$35,000	\$0	(\$35,000)	\$35,000	\$0

Somerset Estates Homeowners Association - Treasurer's Report

Total Funds

Income Statement

May 2022

	Month Actual	Year-to-Date			Budget 2022
		Actual	Budget	Better/ (Worse)	
REVENUE and EXPENSE SUMMARY					
REVENUE					
HOA Dues	\$4,235	\$124,275	\$120,975	\$3,300	\$246,975
HOA Violations, Fines and Late Fees	\$60	\$6,555	\$0	\$6,555	\$0
Transfer Fees	\$0	\$750	\$0	\$750	\$0
Pond 7 Surcharges	\$500	\$1,000	\$1,000	\$0	\$1,000
Special Assessment	\$0	\$2,500	\$2,500	\$0	\$2,500
Interest Income	\$179	\$860	\$1,045	(\$185)	\$2,070
TOTAL REVENUES	\$4,974	\$135,940	\$125,520	\$10,420	\$252,545
EXPENSES					
Administrative	\$2,435	\$20,180	\$21,910	\$1,730	\$40,420
Capital Expenses	\$6,101	\$22,033	\$100,500	\$78,467	\$198,500
Landscape Repair & Maintenance & Enhancement	\$5,168	\$19,285	\$25,700	\$6,415	\$73,440
Lights & Fence & Path & Pond Maintenance	\$17,021	\$17,858	\$16,985	(\$873)	\$21,540
Water & Utilities	\$12	\$1,609	\$6,100	\$4,491	\$22,500
TOTAL EXPENSES	\$30,737	\$80,965	\$171,195	\$90,230	\$356,400
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	(\$25,762)	\$54,975	(\$45,675)	\$100,650	(\$103,855)
Outstanding Dues and Fines					
	<u>0 - 30 Days</u>	<u>30 - 60 Days</u>	<u>60 - 90 Days</u>	<u>Over 90 Days</u>	<u>Total</u>
Dollars	\$0	\$0	\$800	\$0	\$800
# of Homes	0	0	5	0	5

Amended Paragraph in Lot Easement Policy

Adopted at June 21, 2022 Executive Board Meeting

2. Fencing. The Association shall maintain the wood fencing on all common properties, including along the sidewalks on Outlot G and on the easement (Reception #1247289) on the south perimeter of Lots 22 and 23, Block 1, that are to be maintained as common property, (the “Common Property Fencing”) and the fencing along Somerset Drive and Longview Drive (the “Somerset/Longview Fencing”), with the exception that Owners are responsible for keeping the fences on the border of his/her property clear of vegetation and repairing fences that are damaged by landscaping (vegetation, rocks, etc.), pets, children, guests or other agents under the Owner’s control. The Association has the right, in its sole discretion, to maintain (which includes, but is not limited to, staining, treating, and repairing), modify, remove and/or replace the Common Property Fencing and the Somerset/Longview Fencing. Any repairs to the Somerset/Longview Fencing done by an Owner must meet the same standards as repairs by the Association; as an alternative, the Association has the right, but not the obligation, to clear vegetation and repair fences that have been damaged by Owners and charge the associated expenses to the Owner as a Specific Assessment. All other fences (whether fabricated from wood, metal or other materials) located on Lots (the “Lot Fencing”), such as fences between neighboring Owners’ properties or on a single Lot (e.g., side and back fences, fences from the side border to the house, fences adjacent to the Boulder County open space, etc.) are the responsibility of the Owner(s). Owners shall maintain the Lot Fencing in accordance with the Architectural and Landscaping Standards, and may modify, remove or and/or replace the Lot Fencing, so long as any such modifications, removals or replacements are approved by the ACC in accordance with the Architectural and Landscaping Standards.