

Wilderness Park Homeowners Association
Approved Monthly Meeting Minutes
April 3, 2021

Meeting called to order by Jeff Zabinski at 9:30 a.m.

Board Present: Jeff Zabinski, Gina Libbesmeier, Karen Ludwig, Robyn Willette, Tom Hansen, Katie Lewis, Paul Albrecht, and Jeff Finch

Absent: Roger Cummings

Secretary Report: Karen Ludwig

Minutes/updates from March, 2021 were made available to board members and attendees at the meeting. A moment was provided to read through the minutes. Tom Hansen made a motion to approve the meeting minutes; Robyn Willette seconded; motion carried.

Treasurer's Report: Gina Libbesmeier

Balances:

US Bank Checking: \$64,786.81
US Bank Savings: \$63,826.99
US Bank CD: \$20,211.83
First Resource Bank CD: \$11,905.69

- Expenditures included: Regular utilities, \$600 to Nanik for plowing, \$304 for property taxes for park.
- \$636.00 deposits for the month.

Gina has been working more to try to eliminate bad debt on lots. This is a work in progress and may take some time.

Karen Ludwig made a motion to approve the treasurer's report; Jeff Finch seconded; motion carried.

Caretaker's Report:

Tim Brix had nothing to report other than he's ready to come back to work. He will be meeting with the board after the meeting to determine when that start date will be and what tasks should be focused on this spring.

Activities Committee:

Discussions were had about holding activities and what restrictions should be followed. It was decided activities can continue as normally scheduled with an attempt to hold most activities outdoors so that social distancing can be maintained. Watch the website for dates/times to be announced.

An ATV class has been scheduled for May 15, 2021 at 9:00 a.m. The DNR website shows it is closed because it is a private course for members only. If you are interested in signing up your child(ren) contact Paul Albrecht. There will be a second course on May 15, 2021 at 2:00 p.m. that is open to the public. Sign your child(ren) up soon. The classes will be limited to 20-25 participants and will fill up fast. This class/training will be in the clubhouse parking lot; therefore, the parking lot will be closed. The class will take place rain or shine.

Road Committee:

Bids invites are being sent out for gravel to try to do more miles of road before winter.

Rocks were added to Iroquois Loop in soft spots.

Nanik was plowing/grading for \$100/hour and informed with fuel prices he can't afford to continue at that price. Jeff Zabinski informed Northfork would charge \$140/hour. Nanik agreed to continue plowing/grading at \$130/hour.

Dan Paul informed he spoke to a surveyor with regard to paving the road from Leader to the park. He informed the surveyor indicated that the Township hasn't taken bids yet so it may not be paved until next year.

See Open Forum below for more information from the County regarding permits and installation of driveways.

Bylaws Committee:

Vicky Mattson spoke on behalf of the Bylaws Committee. She informed the attorney the committee is working with believed there should not have been two Declarations for the park. She is working on combining the Declarations and provided a rough draft of the combined revised Declarations to the Bylaws Committee at their separate meeting today. The Committee is also working on rewriting the Bylaws. Tom Hansen informed once the Committee comes to a final draft, members will be informed, members will have an opportunity to review the drafts, and vote on them at a special meeting. The Bylaws Committee will meet again May 1st and attempt to meet more regularly over the summer to continue to work on these revisions.

Old Business:

Jeff Zabinski received an opinion letter from Jeddelloh & Snyder with regard to the ski hill. See attached opinion letter of Gwen Anderson. Her assessment leaves many more questions. The sale of the ski hill will be tabled for now.

New Business/Open Forum:

Tom Hansen asked if any board members heard from the County on the status of their "cheat sheet" that the board requested be put together at the last meeting. To date, no one has received a response.

Installation of Driveways: The County informed if the driveway comes off a County Road, contact the County Highway Department for a permit. If the driveway comes off a township road, like most of Wilderness park, contact **Levy Bergstrom at (218) 820-1902**. In all instances, you will need a permit. Anything over 200 yards of earthmoving also requires a Conditional Use Permit. If it is on a riparian (lake) property, it has to be behind the setback. Make sure to have an E-911 address (blue sign) prior to any earthmoving from the County Department. All applications are on the County's website. Copies are also attached to the March, 2021 minutes on the park's webpage.

We will again be doing park cleanup and getting dumpsters the first Saturday of June. More volunteers are requested for cleanup the day of and for cleanup of the parking lot on Sunday morning. It's been the same people helping year after year. Please remember no dumping can occur until Saturday morning around 9:00 a.m.

Gina Libbesmeier will call the County on the status of Gary Water's lot. Robyn Willette believes the County is going to foreclose on it for reimbursement of medical assistance. Once the County takes title, they should clean it up.

Tom Hansen made a motion to adjourn at 10:20 a.m.; Katie Lewis seconded; motion carried.

JS JEDDELOH | SNYDER, P.A.
ATTORNEYS AT LAW

REPLY TO:

☐ 101 Red River Ave N
Cold Spring, MN 56320
Phone (320) 348-2001
Fax (320) 685-9967

☒ 803 West St Germain St
Saint Cloud, MN 56301
Phone (320) 240-9423
Fax (320) 240-9454

☐ PO Box 205
101 Jefferson Blvd
Big Lake, MN 55309
Phone (763) 262-2889
Fax (763) 262-6889

March 25, 2021

Jeff Zabinski, President
Wilderness Park Homeowners Association
8193 Meadow Lake Road SW
Motley, MN 56466

RE: Wilderness Park Homeowners Association's Authority to Sell "Ski Hill" Property

Dear Mr. Zabinski:

You have requested an independent evaluation and review of various corporate documents and real property records to determine whether the Wilderness Park Homeowners Association has the authority to sell the approximately 15.2-acre parcel of unplatted land commonly referred to as the "Ski Hill" (copy of legal description attached), and if so, what procedures are necessary to complete the sale.

My conclusion is that the Association, through its Board of Directors, does have legal authority to sell the described real property without restrictions or separate approval by Members. A majority vote of the Board of Directors approving the sale and a Deed signed by the Association President should be sufficient to authorize and convey legal title of the Ski Hill property to a purchaser.

My conclusion that a sale of this land is authorized and permitted is based primarily on the facts that the land 1) has not been platted as part of Wilderness Park in any of the Additions or added to the Declaration by Supplementary Declaration, and 2) is not a "Common Property" or "Common Area" as defined by the Association's Bylaws and Declaration of Covenants, Conditions and Restrictions. If the Ski Hill were "Common Property," every Member would possess an easement of enjoyment in the property and it would take very substantial Member notice and approval to authorize the sale under the Declaration of Covenants. For this reason, a determination as to whether the Ski Hill property is a "Common Property" is paramount.

The Bylaws of Wilderness Park Homeowners Association define Common Properties as all real property owned by the Association for the common use and enjoyment of the owners, as described in the Declaration. The Declaration dated September 29, 1975 describes Common Properties as Outlot C, Wilderness Park Estates Second Addition, and additions thereto as may be added by Supplemental Declaration. There have been no Supplemental Declarations recorded in the Cass County Recorder's Office for Wilderness Park Homeowners Association. The Ski Hill is therefore not described by the Association as being a Common Property and therefore not subject to the numerous restrictions governing them, including restrictions on sale.

Jeff Zabinski, President

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In my opinion, it is doubtful whether the Ski Hill parcel is even covered at all by the Association's Declaration of Covenants. The Declaration of Covenants is dated September 29, 1975 and was recorded June 18, 1976. The Deed to the Ski Hill property was dated January 20, 1977 and recorded February 8, 1977. Therefore, the Association did not own the Ski Hill property at the time of the original Declaration and it could have not been included as a covered property at that time.

The Declaration does provide for additional Common Property to be added to the Declaration. Any such possible additional property that is unplatted (such as the Ski Hill property) is made subject to the Declaration upon the filing of a plat for the property and recording a Supplementary Declaration of Covenants, after which the property is subject to the Declaration. I have reviewed all of the plats in Wilderness Park Estates through the Ninth Addition and the Ski Hill property has not been included in any of these plats. The legal description of the Ski Hill property remains metes and bounds, further documenting that the property remains unplatted. And as stated previously, there has been no Supplemental Declaration recorded adding the Ski Hill property to the Declaration of Covenants. Although the Ski Hill is owned and held by the Wilderness Park Homeowners Association and subject to its Bylaws, it does not appear to be bound by the Declaration of Covenants, Conditions and Restrictions, as is other property owned by the Association.

Because the Ski Hill property is not Common property of the Association and likely not covered by the Declaration, the Declaration's transfer restrictions relating to Common Properties do not apply to the Ski Hill property. Rather the general rules and Bylaws apply regarding authority of a nonprofit corporation and common interest community to convey property, including approval by a majority of the Board of Directors present at a meeting at which a quorum is present, and execution of a Deed by the President of the Association.

In reaching this opinion I have reviewed the Wilderness Park Homeowners Association Bylaws; Declaration of Covenants, Conditions and Restrictions; Declaration of Protective Covenants; plats of Wilderness Park Estates, original plat through Ninth Addition; Warranty Deed to the Ski Hill property dated January 20, 1977; Cass County maps of Wilderness Park, Outlot H and the Ski Hill; and attorney Joseph Mayers' opinion letter regarding Outlot H dated June 26, 2019. I have also verified various information provided with the Cass County Recorder's Office.

Please contact me if you have questions regarding the information in this letter. Thank you.

Sincerely,

JEDDELOH & SNYDER, P.A.



Gwen M. Anderson

GMA/ars

Enclosures

cc: Karen Ludwig, Secretary
Gina Libbesmeier, Treasurer

This Indenture, Made this 20th day of January, 1977,
between Southern Educators Finance Corporation

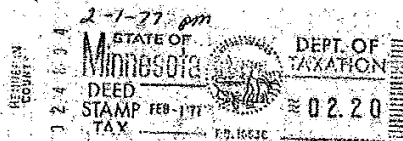
a corporation under the laws of the State of Louisiana party of the first part, and
Wilderness Park Home Owners Association
a corporation under the laws of the State of Minnesota party of the second part,

Witnesseth, That the said party of the first part, in consideration of the sum of one dollar and
other good and valuable consideration NOT DOLLARS
to it in hand paid by the said party of the second part, the receipt whereof is hereby acknowledged, does
hereby Grant, Bargain, Sell, and Convey unto the said party of the second part, its successors and assigns
Forever, all the tract or parcel of land lying and being in the County of St. Louis
and State of Minnesota, described as follows, to-wit:

Commencing at the Southwest corner of Shadywood Road as located in Wilderness Park Estates Fifth Addition, said point also being the Southeast corner of Outlot H, Wilderness Park Estates Sixth Addition, thence West along the South line of Outlot H 700 feet, thence North 69° 59' 33" West 200 feet to the actual point of beginning thence South 28° 00' 27" West 750 feet, thence North 86° 41' 12" West 589.46 feet, thence North 18° 18' 19" West 900 feet, thence North 88° 41' 41" East 200 feet along the South line of Mohawk Loop Road as platted in Wilderness Park Estates Sixth Addition, thence South 69° 54' 33" 815.84 feet along the South line of Outlot H, Wilderness Park Estates Sixth Addition to the point of beginning, located in Section 24, Township 135, Range 31W, Cass County, Minnesota.

To Have and to Hold the Same, Together
belonging, or in anywise appertaining, to the said party of the second part, its successors and assigns, For
ever. And the said Southern Educators Finance Corporation

party of the first part, for itself and its successors, does covenant with the said party of the second part,
its successors and assigns, that it is well seized in fee of the lands and premises aforesaid, and has good
right to sell and convey the same in manner and form aforesaid, and that the same are free from all
incumbrances none



State Deed Stamp Due \$2.20

And the above bargained and granted lands and premises, in the quiet and peaceable possession of the
said party of the second part, its successors and assigns, shall remain, and the said party of the second part
claim the whole or any part thereof, subject to incumbrances, if any, of record.
party of the first part will Warrant and Defend.



In Testimony Whereof, The said first party has caused these
presents to be executed in its corporate name by its
President and its TREASURER, and the corporate seal to
be hereunto affixed the day and year first above written.

SOUTHERN EDUCATORS FINANCE CORPORATION

By Richard O. Smith
Its President
Walter J. Selach
Its Treasurer

LOUISIANA
State of ~~Minnesota~~ } ss.
County of East Baton Rouge

The foregoing instrument was acknowledged before me
this 20th day of January, 1977.

by Richard O. Rush, President
(NAME OF OFFICER OR AGENT, TITLE OF OFFICER OR AGENT)

and by Hallie J. DeLage, Treasurer
(NAME OF OFFICER OR AGENT, TITLE OF OFFICER OR AGENT)

of Southern Educators Finance Corporation
(NAME OF CORPORATION ACKNOWLEDGING)

of Louisiana corporation, on behalf of the corporation.
(STATE OR PLACE OF INCORPORATION)

NOTARY PUBLIC
My commission expires 10/1/78
THIS INSTRUMENT WAS DRAFTED BY
Southern Educators Finance Corporation
P. O. Box 15237 (Name)
Baton Rouge, La. 70895 (Address)

The land described within has been coded
and is described for Taxation Purposes, as
follows: (Per MS272.193)

RECEIVED DESCRIPTION NUMBER 1
SE 7/4 SW 7/4 SW 7/8 24
SECTION
TOWNSHIP 13.5 Range 31
LAWRENCE R. CARLSON, Auditor
CHAS COUNTY, MINNESOTA
On February 8, 1977
By [Signature] Deputy

Minnesota Form No. 2

Doc. No. 229995
WARRANTY DEED
Corporation to Corporation

TO

Office of County Recorder
State of Minnesota

County of Cass
I hereby certify that the within Deed
was filed in this office for record on the
8 day of February
1977, at 9 o'clock P. M.,
and was duly recorded in Book
of Deeds, page
or
[] Indexed [] Microfilmed
and was duly recorded as instrument
No. 229995
Benton Henderson
County Recorder.
By N. S. Deputy
No Delinquent Taxes and Transfer
entered this 8 day of February
1977.
Walter R. Carlson
County Auditor.
By [Signature] Deputy
Tax statements for the real property
described in this instrument should be
sent to:
Walter R. Carlson
1444 2nd St. S.E.
New Brighton, Minn.
55126