

**Minutes of the**  
**Sunset Mesa Property Owners Association's (SMPOA)**  
**Board of Directors Meeting**

**February 14 2015**

Meeting, held at 18431 Kingsport, was called to order 10:15 AM. President and all directors were present.

**MINUTES**

1. January minutes were approved.

**FUTURE MEETINGS OF THE BOARD**

1. March 8, 2015 10:00A.M. 18431 Kingsport Dr
2. April 12, 2015 10:00 A.M. 18431 Kingsport Dr
3. May 18, 2015 10:00 A.M. 18431 Kingsport Dr

**LEGAL MATTERS:**

1. **Alda Shelton, Jon Sherman and the Estate of Gerry and Edith Sherman** were sued for CC&R violations in July of 2010. The Shelton/Sherman property is the home at 3900 Castlerock on the corner of Castlerock and Wakecrest. A portion of the complaint deals with the large ficus tree and the hedges on that corner that are 8-10 feet high.

In 2014, Shelton/Sherman added the Association to their lawsuit with a Quiet Title claim which the judge immediately stayed. Therefore, there was nothing for the Association to do and, in fact, the Association was forbidden from doing anything while the stay was in place. After 4 1/2 years, that trial, without the Association, was to begin on January 12, 2015. On the day of trial, Shelton/Sherman again argued that the Association needed to be brought into this matter, and the stay imposed by the judge should be lifted. The judge vacated the trial date and lifted the stay.

The community should be aware that, as promised and as is the responsibility of the Board, we intend to vigorously defend the CC&Rs. It is the opinion of the Board that the Association is being brought into this matter for nothing other than a bargaining chip or a strong-arming tactic, to which we will not accede. The Board immediately made a motion for the judge to recuse himself, which was granted. Shelton/Sherman first brought an emergency motion to have that decision overturned, and the tentative ruling was against them. Rather than wait for the final outcome, Shelton/Sherman went to the appellate court to seek their intervention on a Writ to overturn the decision. The Association will be opposing that appeal.

Simultaneously, the Association has filed a Demurrer and Motion to Strike. Essentially that amounts to a request for dismissal with prejudice based on the fact that taking the assertions by Shelton/Sherman at face value, which frankly we don't, and giving them their best light, the law does not allow them to sue the Association for what they have put forward. That Demurrer and Motion to Strike are scheduled to be heard on April 3, 2015. Additionally, based on the complete lack of merit, the Association has put forth an offer that Shelton/Sherman and their attorneys, who we believe have filed knowingly false documents with the Court, which Alda Shelton verified under oath, would be given an opportunity to voluntarily withdraw the Quiet Title action against the Association by the end of business day February 20, 2015 and the Association would be willing to waive costs.

The Board would like to thank Natasha Roit and Christopher Campbell for immediately stepping in for the Association and representing us until determinations are made regarding insurance.

The Board would like to assure the membership that there will not be any negotiation of the CC&Rs or any settlement paid. We are not going to negotiate with people holding this Association hostage, and where we are a small and like to be amiable and neighborly community, that should not be mistaken for weakness.

## 2. **Bankruptcy of Marvin Goodfriend, 3925 Malibu Vista Dr.**

The Association filed a Limited Opposition to the sale of this property by the Bankruptcy Trustee. The Association's position was and remains that the sale of the property, as is the case with all homes in Sunset Mesa, is subject to the CC&Rs and SMPOA governing documents. Unfortunately, the Trustee, Jason Rund, and his counsel, John Melissinos of Greenberg & Glusker, have tried to limit the rights of the Association, having not articulated a legal basis for selling the home without CC&Rs or for limiting the Association's governing documents. In fact, they conceded, they have no basis.

Mr. Rund and his attorney Mr. Melissinos have made more than one error in court filings, including, but without limitation, not properly reflecting the County recording numbers for the CC&Rs, while attempting to limit the Association's legal rights to the documents they list.

The limitations Mr. Rund has sought were not part of the order of the court and he has not pointed to any part of the court transcript that he is relying on as a basis for his demands.

The buyer's attorney has not joined the Association in demanding that the Trustee follow the law.

The Association has asked for a hearing before the Bankruptcy Court. That request was granted, and the hearing will take place February 19, 2015.

## **ARCHITECTURAL COMMITTEE:**

1. **Site visits** scheduled for February 15, 10:00 AM. The schedule was posted at the community website, [www.sunsetmesa.org](http://www.sunsetmesa.org), under the Architect Committee tab. The following addresses requested a site visit:

3730 Malibu Vista, (Malouk), Request for remodel review

18444 Clifftop, (Ayestas), OVI complaint

3418 Surfwood, (Pastor), Request for remodel review

3516 Surfwood, (Pastor), Request for remodel review

3653 Seahorn, (Ovsowitz), Request for remodel review

3722 Surfwood, (Patel), Request for awning approval

18241 Wakecrest, (Bernstein), Request for remodel review

2. **3418 Surfwood (Pastor)**, presented site plans in person and explained the remodel. The Board advised him of his obligation to distribute notices to ALL surrounding neighbors—houses directly or diagonally in the rear where view obstruction may potentially be present.
3. **18241 Wakecrest (Bernstein)** presented his site plans in person and discussed the extent of the remodel. He was advised to put in story poles before requesting site visit and to discuss the remodel with his neighbors.

4. **3722 Surfwood (Patel)** Requests a site visit seeking approval of a retractable awning that may cause OVI when open to the adjacent neighbor. Board member Terry Harper recused himself from the site visit since he is an impacted neighbor and is currently involved in a proceeding concerning the matter.
5. **18230 Wakecrest (Tate)** An email was received from Rob Ross inquiring whether Tom Tate's ongoing hardscape was previously approved by the AC. Linda confirmed that the project had been previously approved and the submitted plans were stamped by the AC. The AC will confirm that the work being done complies with the plans approved by the AC.
6. **Letter of Determination to 3825 Malibu Vista** was the result of a previous site visit on January 11, 2015. The 1/25/15 correspondence advised the homeowners, Roozbah Pashmfouroush and Julie Chew, that the extensive remodeling project was approved but that balcony remodel that sought approval was denied. The external deck plan facing Malibu Vista Drive sought to enclose the deck that would have resulted in an OVI to other homeowners. The letter requested they modify this portion of the remodel to eliminate the OVI. Homeowners advised the AC that they had sought and received approval from the other homeowners. However, requesting homeowners were reminded that there is no provision within the CC&Rs that allows for ocean view interference regardless of permission from the effected neighbors. Further, the homeowners were made aware that both the building and the maintenance of that enclosure of the balcony violates the CC&Rs and the disapproval of that balcony will remain with that property, said violation will be provided with an escrow document when requested at the time of sale, and any future or current neighbor could object to the balcony based on the CC&Rs.

## TREASURER REPORT

Treasurer's report provides information below as of January 31, 2015 including:

- The **WFB account** with an ending balance of \$130,547.71, as the Association continues to liquidate the investment accounts for the safe harbor sheltering of the Association funds. This increased amount represents the \$115,000 transfer balance from the Stifel account completed and reported to the community in December, 2014.
- \$1.00 interest was earned.
- Checks totaling \$1,082.50 were paid out as follows:

Check 2108: \$647.50 to Kaiser Swindel      *Bankruptcy case of Marvin Goodfriend*

Check 2109: \$435.00 to LA Superior Court Filing Fee      *Kalcheim v. Shelton, et. al*

- **Stifel account.** The Thornburg Bond matured at 1.86% yield for a total net loss of -\$1,085.11 on its original pre-2012 purchase of \$34,164.30, leaving an asset balance of \$33,079.20. In line with the previous and current Board's position, Stifel funds will be moved to the WFB account, thus closing the only Stifel investment SMPOA account.
- **UBS account.** As of January 30, 2015 the account's balance value is \$103,976.55, representing an increase of \$2,396 in market value. \$81,326.19 is held in the fixed income account and \$22,650.36 in a cash equivalent account. That amount will be transferred to the WFB account.

## TAXES

Tax and accounting data were sent to Steve Vogel, CPA, of Vogel and Kinne, for preparation of the corporate tax returns for FY 2013-2014. These returns must be filed by March 7, and will be completed barring any unforeseen delay. A check for \$130 was approved to pay an unpaid balance.

## **CURBSIDE STREET SIGN PAINTING**

As advised last year, and part of your paid HOA dues, the curb numbers of your address is being re-installed. This is not just paint curbing. Work began last week on cleaning and preparation of the curb where the address will be affixed. Test materials were delivered by Linda to John Lehne February 12. Work begins on Kingsport when all materials arrive. Curb painting, including SMPOA logo, and reflective numbers affixed on the curb, is provided at no additional cost to all dues-paying members of the SMPOA.

It was recently reported that some homeowners have actually threatened to call police on the installers! Not only are these homeowners misinformed but they should be advised this public service is for the benefit of emergency vehicles to identify the address on these 5-inch reflective numbers. The minutes lost in looking for an address late at night, when numbers are either concealed into the architecture, unlit or simply not visible, can mean the difference in the life these heroes save. It could be your own!

On the other hand if you received ANY written notice of request for money to paint your curb this is not SMPOA nor is it an approved vendor.

## **GETTY CARDS**

New cards have arrived. A benefit of paid dues entitles you to a card. Members not in good standing will no longer receive this benefit. The Board would like to thank long-time resident and volunteer, Nancy Posner for distributing the past cards. Cards are now available for pick up through the Board and will only be distributed automatically with self-addressed envelopes, stamps not necessary. Drop them off.

## **OTHER MATTERS**

It was reported to the Board that an insect has infected neighborhood pine trees. Board will immediately contact LA County and report back.

Membership to the SMPOA is automatic as owner of a property within its tracts. A member in good standing is a member that has paid their \$100 dues. While the dues are voluntary so is the service of the Board and committees. Your ocean views are strongly protected and violations are processed. This costs money. Your minor dues ensure the value of your home(s) will not erode due to an OVI. As you can see there are two current cases involving CC&R protection. In short, we're doing our part. There are 300 of the 500 homeowners that have not paid their dues. That's a significant number of people that enjoy the benefits we so strongly protect. Rather than incur the expense of mailing these people individually, the Board will soon post a list of all members still owing yearly dues that covers the period July 1 through June 30.

If you have not done so already please send your \$100 dues check to SMPOA c/o 18431 Kingsport Dr. Malibu, CA 90265.

There being no further Board business, the meeting adjourned at 11:30 A.M., and the Board moved into Executive Session.

Submitted on behalf of SMPOA



Shyam Amladi, Secretary