

**Minutes of the September 25, 2014 Meeting of the Board of Directors of the Silver Creek Valley Country Club Geologic Hazard Abatement District.**

A meeting of the Board of Directors of the Silver Creek Valley Country Club Geologic Hazard Abatement District (“District”, “GHAD”) was held at 5640 Country Club Parkway, San Jose, California, on September 25, 2014 and was called to order at 6:32 PM.

Agenda item 1: The following Directors were present at the beginning of the meeting and constituted a quorum for the transaction of business: Bruce Apkarian, David Crouse, James Forsberg and Reyad Katwan. The General Manager of the GHAD, Ed Abelite was present at the meeting and was asked by Mr. Katwan (the Chairman) to be the Secretary of the meeting and to keep the minutes of the meeting. Mr. Ralph Waggitt and Mr. Stephen Ursenbach were present from the public.

It was noted by the Directors that the agenda had been properly posted by Mr. Abelite at the guard gate at least 72 hours prior to the meeting.

Agenda item 2: The minutes of the June 19, 2014 meeting were then reviewed by the Board of Directors. Mr. Forsberg made a motion to approve the minutes. Mr. Crouse seconded the motion. The Board voted to approve the minutes as follows: Voting yes: Messrs. Apkarian, Crouse, Forsberg, and Katwan. Absent: none. One Board seat is vacant.

Agenda item 3. Comments from Public and Correspondence: Mr. Waggitt was introduced as the resident who had registered a concern with the HOA about the subsidence of his property along his rear property fence line. Mr. Waggitt’s concern was then forwarded to the GHAD by the HOA. Mr. Abelite and Mr. Crouse briefly discussed the issue for introduction purposes only and Mr. Katwan then moved the meeting discussion to the next agenda item because Mr. Waggitt’s item was already on the GHAD agenda for discussion later.

Agenda item 4. Introduce potential Board members: Mr. Abelite presented the Board with bios for two prospective Board members who had indicated their interest in joining the GHAD Board. The bios presented were from Stephen Ursenbach and Tom Hunt. After introductions, Mr. Ursenbach presented his experience with other relevant Boards he has served on and he described his history in the Silver Creek Community. Mr. Hunt was not able to attend this meeting. The Board did not take any action to appoint a Board member as this was an item scheduled to occur later in the meeting.

Agenda item 5. Conference call with GHAD Counsel David Preiss regarding interactions with the Public: At this point, Mr. David Preiss joined the meeting via conference call. Mr. Preiss presented his advice on interactions with the public. He indicated that it is the GHAD’s duty to respond to questions from the community and be forthcoming to the extent possible as the GHAD is a public agency. At the same time Mr. Preiss said that in so doing, the GHAD needs to make the public aware that we are not geologic experts and that the GHAD should encourage the public to seek expert advice on their own. In part, the mechanism that could help reinforce this approach would be the use of “Disclaimer Language” Mr. Preiss has created for the GHAD. The Board agreed with the Disclaimer language presented except that they directed Mr. Preiss to consider placing language in

the Disclaimer that states we are not experts. The Board then directed Mr. Abelite to create a policy for communication and responses to requests for information.

At this point in the meeting, the Chair directed that Agenda item 7 be heard at this time.

Agenda item 7. Approval of the 2013-2014 GHAD Audit: Mr. Abelite presented the staff report and the draft Audit for 2013-2014. Mr. Apkarian made a motion to approve the 2013-2014 GHAD Audit as presented. Mr. Crouse seconded the motion. The Board voted to approve the motion as follows: Voting yes: Messrs. Apkarian, Crouse, Forsberg and Katwan. Absent: none. One Board seat is vacant.

Agenda item 6. Yearly presentation by Morgan Stanley Smith Barney. At this point in the meeting, Ms. Guimarin arrived. Ms. Guimarin presented the Board with a reported dated September 25, 2014. She presented GHAD's recent and historical earnings results which show low rates of return due to the GHAD's Investment Policy. She stated that the Morgan Stanley Smith Barney account is adhering to said policy.

Agenda item 8. Approval of the Conflict of Interest Code update. Mr. Abelite presented the staff report and staff recommendation to approve the update of the GHAD Conflict of Interest Code. Mr. Crouse made a motion to approve the updated Conflict of Interest Code and Mr. Forsberg seconded the motion. The Board voted to approve the motion as follows: Voting yes: Messrs. Apkarian, Crouse, Forsberg and Katwan. Absent: none. One Board seat is vacant.

Agenda item 9. Report on 5723 Trowbridge Way and discussion regarding general HOA policies. Mr. Abelite reported to the Board about 5723 Trowbridge Way. He and Board Member Crouse updated the Board as to the findings of their September 6, 2014 site visit. Mr. Abelite reported that he and Mr. Crouse concluded that the earth movement was probably due to soils creep rather than a landslide. He also reported that at the time, Messrs. Abelite and Crouse also thought it would be prudent to bring in C2 Earth to see the conditions and arrive at their own conclusions.

Mr. Abelite went on to report that Rexford Upp and Jennifer Buckley of C2 Earth toured the site backyard under the guidance of Mr. Ralph Wigget on September 16, 2014. The C2 Earth Soils Engineers concluded that the earth movement was related to hillside creep rather than a landslide. This information was conveyed to the home owner at a verbal debriefing at the end of the site visit.

Mr. Abelite further reported that Mr. Upp believes there are factors that may be contributing to hillside creep in the community. The visit to this particular site made it apparent that rodent burrows and sheep grazing for fire control purposes could be contributing factors accelerating hillside creep in the District. Mr. Abelite reported that there are several stakeholder interests involved in this HOA issue including but not limited to:

The Fire Department for the purposes of fire abatement tactics,  
The Home Owners Association in their efforts to abate hillside grasses,  
The individual homeowners as it relates to fire abatement and hillside land creep,  
The City Planning department that may require Community wide Permit adjustments,  
And the GHAD.



After some discussion, the Board directed Mr. Abelite to notify the Home Owners Association of the GHAD's concern. It should be noted that with Mr. Waggit in attendance at the meeting, the Board concluded that there were no other actions or services that the GHAD could do directly for 5723 Trowbridge Way.

Agenda item 10. Manager's Operations report.

- a. Mr. Abelite reported on his search for candidates to replace the vacant seat left by the resignation of Mr. Manso.
- b. Mr. Abelite reported that he had worked with Mr. David Preiss on the GHAD Communication policy as reported earlier in the meeting.
- c. Mr. Abelite reported on his work to initiate and conclude the draft Audit for 2013-2014 as reported earlier in the meeting.
- d. Mr. Abelite reported that he had worked on updating the GHAD Conflict of Interest Code as reported earlier.
- e. Mr. Abelite reported that he had worked on clearing the virus found on the GHAD's main website.
- f. Mr. Abelite reported that he completed work on the 2014 Tax Roll project with the County of Santa Clara.
- g. Mr. Abelite reported that he had three communications with the public since the last meeting.

Mr. Abelite described the communications regarding 5145 Vicenza Way and that he considered the matter closed.

Mr. Abelite reported on 5723 Trowbridge Way earlier in the meeting and could now consider the matter closed.

Mr. Abelite presented the Board with an email from Mr. Tom Hunt regarding the Trilateral Agreement between the GHAD, the HOA and the Golf Course. After some discussion, the Board directed Mr. Abelite to respond to Mr. Hunt by pointing out that the Riviera HOA property owners are indeed parties to the Tri-Lateral agreement by the fact they are members of the Master HOA.

- h. Mr. Abelite reported that he had worked on regular financial items such as processing invoices, reconciling accounts and filing away documents in the record.
- i. Mr. Abelite reported that he completed work on the 2014 annual Newsletter.



- j. Mr. Abelite reported that he had not worked on the “scope of work” directive for the GHAD sub drain project but will do so in the coming months.
- k. Mr. Abelite reported that near future GHAD work included starting the annual Air Flight Systems photography flights, starting the annual Fall Inspections and starting the Birkdale surveys by civil engineers MacKay and Somps.

Agenda item 11. Board to consider appointing a replacement Board member. At this point in the meeting, the Board opened to the public a question and answer period with Mr. Ursenbach. Mr. Ursenbach stated he would like to serve on the Board and asked and answered some questions. At this point in the meeting, the Board closed the public session and Mr. Apkarian made a motion to appoint Mr. Ursenbach to fill the vacant Manso Board seat contingent on Election Law allowing Mr. Ursenbach to participate regardless of if he votes in another location in California. Mr. Crouse seconded the motion. The Board voted to approve the motion as follows: Voting yes: Messrs. Apkarian, Crouse, Forsberg and Katwan. Absent: none. One Board seat is vacant.

Future Meeting Calendar: The Board then discussed the upcoming meeting date and concluded to not meet in October. The Board directed Mr. Abelite to work on scheduling future GHAD meetings through the end of 2015.

The meeting was adjourned at approximately 8:30 pm.

Respectfully Submitted,

DocuSigned by:  
*Ed Abelite* REALTOR  
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DocuSigned by:  
*David Crouse*  
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, Secretary of the Meeting 1/30/2015

and

, Clerk of the Board 1/30/2015