



SHARC Meeting Minutes

Date	April 26, 2005 – 6pm. Held at 2173 Talon Drive, Shingle Springs
Attendees	<p><u>SHARC Members</u></p> <ul style="list-style-type: none"> ▪ Deb Burns, Kathy Alhady, Lynn Massey <p><u>BOD Members</u></p> <ul style="list-style-type: none"> ▪ Ed Ricketts – President ▪ John Carter – Secretary ▪ Michael Brown – BOD Member <p><u>Home Owners</u></p> <ul style="list-style-type: none"> ▪ Larry Massey, John Iander, Vickie Iander, Ron Theuner, Don Oas, Jim Cobb, Jim Alford, Don Kuhl, Hermie Stride, Paul Burns, Alan Miglore
Agenda	<p><u>Welcome</u></p> <ul style="list-style-type: none"> ▪ All attendees welcomed by SHARC/Introductions ▪ Meeting tasks for SHARC members reviewed (rotates per meeting) <ul style="list-style-type: none"> ○ Chair: Lynn Massey, Scribe: Deb Burns and TimeKeeper: Kathy Alhady <p><u>Agenda</u></p> <ul style="list-style-type: none"> ▪ Agenda reviewed ▪ Subjects for discussion during the Opens requested/taken ▪ This is a regular open SHARC meeting, not a meeting between BOD & SHARC <p><u>Agenda Change</u></p> <ul style="list-style-type: none"> ▪ Per an Open subject suggested by Ed Ricketts, the attendees agreed to put aside tonight's agenda items and concentrate on his following opens: <ol style="list-style-type: none"> 1. Ed Rickett's introduction of the new SHARC Chairman, appointed by the BOD, Ron Theuner 2. A memo from Ed Ricketts to SHARC members (dated 4/26/05) titled "Helping SHARC" (<i>see attached memo</i>)

<p>Meeting Notes</p>	<p><u>Introduction by Ed Ricketts of New SHARC Chair</u></p> <ul style="list-style-type: none"> ▪ Ed Ricketts commented that he assumed that this would be a closed meeting between SHARC members and BOD Members <ul style="list-style-type: none"> ○ Lynn Massey stated that this was never SHARC's understanding. ○ Moreover, the request for SHARC to meet with the BOD was actually communicated to SHARC members by Molly Carter (apparently the originally SHARC chair appointee via the BOD) and not a member of the BOD. ○ The reason that SHARC understood from Molly Carter that Ed Ricketts and John Carter wanted to meet with us was to introduce their second SHARC chair appointee, Ron Thuener. ○ Being that SHARC had a regularly scheduled meeting tonight; SHARC suggested to Molly Carter that Ed Ricketts come to our meeting. ▪ Ed Ricketts introduced Ron Thuener as SHARC's new chair. <ul style="list-style-type: none"> ○ When asked by home owner John Iander what was his job function and why he was appointed chair, Ed Ricketts stated <i>"We want the chair (of SHARC) to fulfill the directives of the BOD, that's the reason for it"</i>. ○ When asked what directives by homeowner Larry Massey, Ed pointed to his memo and stated <i>"These that have been addressed in my memo and approved by the BOD in our 2 last meetings"</i> ○ Lynn Massey pointed out that based on our CC&Rs; the BOD is not responsible for appointing members to SHARC, per Section 3.3 of our CC&Rs. Also, that SHARC rotates the position of chair, as well as scribe and time keeper per each meeting. Also that the 'chair' position does not have any 'leadership' responsibilities per se. These are 'owned' equally by all members. ○ John Carter referenced BOD meeting minutes dated 2/11/99 and highlighted number 5 as supporting their stance that the President has authority over SHARC to appoint a chair. <ul style="list-style-type: none"> ▪ Several home owners present read the minutes and disagreed as to the BOD's interpretation ○ Ed Ricketts stated that he does, based on Section 8.1 of our By Laws ○ Several home owners in attendance disagreed and Deb Burns said <i>"Ed, you are mistaken and have misinterpreted By Law 8.1"</i> ○ Lynn Massey stated <i>"Ed, By Law 8.1 applies to those committees appointed by the President and/or the BOD, such as the Welcoming, Newsletter and Roads committees"</i>. She further stated <i>"the SHARC was appointed initially by the 'declarant', which in our case was Beazer Homes and not yourself as President. Past the initial 3 year period and moving forward, any new members or changes in membership is the decision of the SHARC, per Section 3.3 of our CC&Rs"</i>. ○ Ed Ricketts disagreed and asked <i>"So does this mean Are you unwilling to cooperate with the BOD?"</i> ○ Kathy Alhady stated <i>"no Ed, we are a committee created by the CC&Rs as the BOD is". "You and the BOD don't have authority over us, nor do we as SHARC have authority over the BOD, but of course we want to do more than cooperate. We want to work together with you."</i> ○ Lynn Massey further stated <i>"Ed, no one is the 'boss' of anyone in this community. We are a team, the BOD and SHARC, along with all other committees and the home owners as a whole. Each committee has it's set of</i>
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responsibilities: the BOD and SHARC, as set for the by the CC&R's; the additional committees, as mutually agreed upon by those members and the BOD and lastly and more importantly, all us home owners – we are a team, working together to make this a happy, healthy community”.

- **Ed Ricketts** asked **Deb Burns and Lynn Massey** “...so according to you, we have no right to regulate the committee?”
 - **Lynn Massey** answered “*it's not a matter of 'according to any of us, Ed. It's 'according' to the CC&Rs*”
 - **Ed Ricketts** asked SHARC members again “*So I do not have the authority over you?*”
 - Several of the home owners in attendance answered en mass “*No.*”
 - **Jim Alford** stated “*Ed you do not dictate or send out directives*” he went on to say “*You are home owners, just like the rest of us who have been elected to 1 or 2 year terms for the purpose of handling community business such as paying the bills, maintaining bank accounts and budgets*”. “*SHARC must remain a sole entity, as the 'policemen' of architectural structures and improvements*”.
 - **Jim Alford** further stated that he “*likes the separation of power between BOD and SHARC*”. **John Iander** seconded this and **Larry Massey** and **Hermie Stride** also agreed.
- **Lynn Massey** suggested that Ed Ricketts read the BOD memo out loud and SHARC would then comment.

Memo From Ed Ricketts dated 4/26/05 (see attachment)

- Several homeowners present bluntly stated that this memo, especially the opening paragraph was “*deeply offensive, outrageous, mean, thoughtless and cruel and a direction reflection on all community members who have served on past committees*”.
- Several also stated that they could not believe this was created and sent out by the BOD. Also that the BOD should be “*ashamed of themselves*” for creating and distributing a memo like this.
- It was felt by most home owners in attendance that being a SHARC member was one of, if not the toughest job, that of policing properties and enforcing our CC&Rs and guidelines. It was also stated by many attendees that SHARC does an excellent job and should be commended, not ridiculed by the BOD.
- **Jim Alford** asked who wrote the memo. **John Carter** answered “*I wrote it, with emotion*” and **Ed Ricketts** answered “*..and I signed it*”
 - **John Carter** further stated “*the intent of these directives is to change perception*”. **Jim Alford** asked, “*Whose perception? Those few members that have been denied improvements? Is this memo a reflection of the BOD, or a personal letter from John Carter?*”. **John Carter** stated “*I wrote this*”.
 - **Vickie Iander** asked “*Do you have documentation to support complaints (against SHARC)?*” We have all the information we need” said **Ed Ricketts**
 - **Deb Burns** asked what BOD members approved the memo, **Ed Ricketts** responded “*Four members approved it, and one did not*”. At that point, Michael Brown stated “*I did not approve it, 'necessarily', it was suggested by Ed and I wasn't sure*”.
 - It was also stated that BOD member, **Scot Yarnell** told the BOD at a recent

April 2005 meeting that he believed imposing BOD directives on SHARC was against the CC&Rs and he voted against this memo.

1) "Require a written copy of SHARC meeting minutes be provided to the BOD, and not just to the webmaster"

SHARC Response

- SHARC meeting minutes are posted on Shadow Hawk's website (www.shadow-hawk.org). BOD members and community members are welcome to access, view, download and/or print these minutes at any time.
- Although, this is not required by the CC&Rs or the By-Laws, SHARC has begun to post meeting minutes because we feel that this provides the BOD and the community with an easily accessible record of the actions of our committee. We anticipate that we will continue this practice.

2) "Require a written copy of the Guidelines, which the SHARC uses in review of all applications"

SHARC Response

- The Guidelines, in accordance with CC&R section 4.7, were created and adopted by a previous SHARC in 1999, updated in 2001 by another previous SHARC and are utilized by the *current* SHARC. Guidelines have been available on the Shadow Hawk website for several years (contact webmaster, Dean Zimmerman as to exact upload date) and can be accessed via the website.
- We understand, from former BOD members that still reside in our community that these Guidelines were sent out to the homeowners for comments, additions and omissions. They were then reviewed with the BOD then in place prior to being put into use by SHARC.
- The current SHARC has not made any changes to these Guidelines in any way, nor has the current SHARC created any new Guidelines.
- BOD and community members are welcome to access, view, download and/or print a copy of the Guidelines at any time.
- Also note Section 4.7 of our CC&Rs which states:

4.7. DESIGN AND CONSTRUCTION

"...The construction of Improvements on each Lot is subject to the "Guidelines", if any, as promulgated and administered by the Architectural Control Committee..."

3) "Quarterly Activity and Progress Reports shall be written and submitted to the BOD for review, monitoring, comment and approval"

- a) For the application report, include by lot or address the applications reviewed, date application submitted, length of time for initial review, length of time between date of all CCR required info supplied and date of approval/not approval, specify items of concern or missing info, dates of person face to face contact, date of other types of contact, specify contact type, i.e., phone, email letter certified mail, date application approved, not approved.*
- b) For the annual lot compliance survey, report quarterly by lot or address, list*

CCR violations, date of face to face discussion with member, date of other types of contact and specify type of contact, date and actual data an date of face to face meeting to encourage compliance, describe any site specific problems with compliance

SHARC Response

- The SHARC currently shares their progress/Activity Reports with the BOD in the following ways:
 1. SHARC present an Activity/Progress Report to the membership as a whole at the annual meeting
 2. SHARC posts all meeting minutes online
 3. SHARC hopes to have a BOD member in attendance as an additional member of SHARC at future meetings.
- While we welcome input and feedback from all members of our community, SHARC has attempted in the past to keep the BOD aware of our activities, only to be repeatedly rebuffed.
- Our past requests for a BOD member to join SHARC have been ignored.
 - On 9/20/04 the BOD acknowledged that they would be in attendance at a closed meeting SHARC had called for on 9/28/04 to discuss the dispensation of the three most pressing violations in our community and the need for a Violation/Consequence Program
 - On 9/27/04 **Ed Ricketts** called SHARC members and canceled, incorrectly citing the Brown Act.
 - In lieu of the meeting, SHARC reluctantly delivered meeting packets to the mailboxes of the BOD on 9/28/04
 - As of this date, 05/03/05, we have had no response
 - At tonight's meeting, **Ed Ricketts** acknowledged receiving this packet, however, he also acknowledged "forgetting" our request for a BOD member to join SHARC
- SHARC does not see anything in the CC&Rs that indicates where monitoring of SHARC or approval by the BOD is required.

4) "Allow temporary barns for new residents for reasonable period, do not limit to two weeks"

SHARC Response

- SHARC has been given the responsibility of interpreting and enforcing the requirements of the Architectural Control section of our CC&R's. Although we have requested input from both the BOD and the community as a whole in order to most accurately reflect the wishes of our community, this responsibility was not given to the BOD.
- SHARC members feel that due to the random orientation of homes, sloping

topography, lack of vegetation and overall "openness" of our unique community, each "temporary structure" must be considered on an individual basis with respect to our CC&R requirements in order to ensure, preserve and protect the scenic quality of our community and the **property values of all community members.**

- A major concern and responsibility with the approval of "temporary" structures is that there is no incentive for a property owner to maintain that improvement to a level equal with permanent structures within the community.
- To that end, SHARC will strive **not** to play a part in allowing the possibility of having a deteriorated, poorly maintained and perhaps unsafe improvement within our community on a long-term "temporary" basis. We do realize that "pride of ownership" is sometimes reflected in these types of structures, but have been forced to acknowledge that this is not always the case.
- **We would suggest that a realtor, real estate appraiser or a prospective buyer coming to our community cannot distinguish between a "temporary" and a permanent structure. Thus, we must assume that they will view all structures as permanent. As such, all "temporary" shacks, lean-tos, sheds, barns and chicken coops have the potential to significantly impact the resale value and borrowing power of all members of our community.**
- Along with the BOD, the SHARC views itself not only as a resource and servant of our community, but also as a protector of community real estate values.
- As such, we feel that in taking our responsibilities as seriously as they deserve to be taken, we must continue to review all building submissions, temporary or otherwise, within that context, and within the boundaries of the CC&Rs.

5) *"SHARC member's properties shall be CCR violation free, as good role models to the community"*

SHARC Response

- While we feel this is a good suggestion in theory, we don't believe that SHARC members should be held to higher standards than those expected of the BOD, members of other committees and other members of our community. We should **all** strive to be good role models for the community.

Attendees Input

- **Larry Massey** asked if **Ed Ricketts** had directed the BOD members that they also must meet the Guidelines? **Ed Ricketts** said no, not at this time, but he agrees and has no problem with making a motion at the next BOD meeting to make sure that BOD members meet the same criteria.

6) *"Screening of items of concern shall be screened from the nearest association street to the front of the house, not just any street or driveway or access way"*

SHARC Response

- SHARC has been given the task of enforcing the requirements of the Architectural

Control section of our CC&R's. SHARC feels that due to the random orientation of homes, sloping topography, lack of vegetation and overall "openness" of our unique community, that each "item of concern" must be considered on an individual basis with respect to our CC&R's in order to ensure, preserve and protect the scenic quality of our community as well as the property values of *all* community members.

Attendees Input

- There are several houses where the "front" of the house actually faces opposite the street. Therefore, if something that should be screened (e.g. trailers, bulldozers, etc.) is sitting behind the back of the house, it then becomes VERY visible to those driving around. Ex: Two large tractors parked behind a home on Shadow Hawk Drive were the immediate "greeting" to anyone entering the front gates
- **Ed Ricketts** commented that he would ensure that this issue was passed along to the CC&R Review Committee

7) *"As per the CC&Rs, the President shall appoint a chair for SHARC, and the Chair shall make appointments for membership on the committee from these members willing to volunteer;"*

SHARC Response

- At the most recent Special Meeting of the BOD, held on April 21, 2005, a member of the BOD asked: "Ed, why do you need to "stack" SHARC?" In light of this question to you from a BOD member, and how it relates to your directive above, SHARC respectfully submits that the section you identify as the basis for this directive: 8.1 – refers to those committees that are created by the President and the BOD, such as the "Welcoming Committee", the "Newsletter Committee", etc. We respectfully point out that SHARC was created, as stated in Section 3.3. By the 'Declarant' – this in Shadow Hawk's case, initially refers to the builder, Beazer and not the President or the BOD.
- Please note By Laws Section 8.1 – which SHARC believes **is not applicable**

ARTICLE 8.1 COMMITTEES

"... In addition, the BOD shall appoint other committees as deemed appropriate in carrying out its purposes. Chairpersons shall serve at the pleasure of the President, and members of committees shall serve at the pleasure of the chairperson of each respective committee. All committees shall keep written minutes of their proceedings, report their proceedings to the BOD, and file their minutes with the Secretary.

- Lastly, we would refer you to Sec 3.3 of the CC&Rs which we believe to be **applicable controlling documentation** in this matter. That section states:

SECTION 3.3 – ARCHITECTURAL CONTROL COMMITTEE

“...After the initial three year period, the Committee members shall have the full authority to designate a successor in the event of death or resignation of a member....at any time thereafter (the initial three year period) the then record owners of the majority of Lots shall have the power, through a duly recorded written instrument, to change the membership of the Committee...”

Attendee Input

- **Ed Ricketts** and **John Carter** strongly disagree with SHARC and many of the home owners present tonight that CC&R Section 3.3 – *Architectural Control Committee* is the controlling documentation with regard to membership in SHARC. **Ed Ricketts** and **John Carter** believe that *By Law section 8.1 – Committees* applies to SHARC and therefore gives **Ed Ricketts** as president, the authority to appoint members and determine their job description. He feels that this should be discussed in more detail at an upcoming BOD meeting.
- **Ed Ricketts** and **John Carter** feel further that they need to solicit outside consulting on this issue (3.3 vs. 8.1) in an effort to determine if **Ed Ricketts** has authority over SHARC members and job roles or not. There was some discussion that Tim Cary & Associates, the association’s current legal advisor is considered a “generalist” and there may be a need to search out someone with more HOA legal experience.
- **Note: The issue of spending community funds regarding this question was highly contested by many home owners present.**

8) Application Approval Process

- a) “Encourage SHARC to be reasonable, to project the community’s friendliness, and willingness to help newcomers feel appreciated and welcome;”*

SHARC Response

- SHARC will continue to work to project friendliness and a willingness to help all community members while striving to enforce the CC&R’s. SHARC has and will continue to treat all community members with respect whether they are “newcomers” or not.
- **However, you should be aware that, from time to time, there will be individuals who will choose to disregard, ignore or violate the**

CC&Rs regardless of how reasonable the SHARC might be.

- There are segments of the population, including members of our association, who believe in the premise of asking for forgiveness rather than permission, and also those who will attempt to get away with minimal compliance with any rules, merely for the gamesmanship provided.
- SHARC reminds the BOD that all homeowners, new or existing agreed in writing to uphold and obey the CC&Rs when they purchased their home.

b) "Have SHARC be proactive in helping home owners to get their plans approved, look at the bigger picture, don't be so nitpicking, meet face to face with applicants, if a no approval is necessary wording must be more friendly"

SHARC Response

- SHARC has always tried to help homeowners with their requests.
- With regard to "nitpicking", if abiding by the CC&Rs is considered "nitpicking", SHARC wholeheartedly suggests that the BOD work with the CC&R Committee that was formed over a year ago to expedite their activities.
- SHARC is bound to uphold the charter we volunteered to carry out – which is to enforce the current CC&R's, By Laws and Guidelines.

c) "Applications shall be given to the SHARC chair"

SHARC Response

- All applications should be submitted to the address that is clearly stated at the top of the SHARC review form: 2173 Talon Drive. Home owners are also welcome to submit their applications in person at SHARC meetings or to an individual SHARC member. The date of receipt is then noted by the member who received it by writing it on the top of the form.
- As stated earlier, SHARC's position of 'Chair' is a rotating task per each meeting and is not that of a 'Leader' for our committee overall.
- All committee members are equally dedicated to their role and SHARC does not believe we require an appointed 'leader' or 'chair' to direct us.
- We also rotate the task of representing SHARC and presenting our Activity/Progress Reports at BOD meetings.

d) "The SHARC chair assigns to a SHARC committee member, on a rotating basis, the responsibility for checking out the application to see if all of the application requirements are met."

SHARC Response

- SHARC currently *does* assign members to individual requests and feel that this has worked well for both SHARC and homeowners.

e) *"The SHARC member assigned to an application becomes the primary contact with the home owner on this project"*

SHARC Response

- This also is and has been the process that SHARC follows - The assigned SHARC member "owns" this application throughout its approval life cycle and is the primary contact with the home owner throughout
- We strive to have two or more members present at on-site visits in order to assure continuity and clarity.

f) *"The SHARC member contacts, face to face, the home owner prior to the SHARC to the SHARC application approval meeting to discuss and help the Home Owner get all the necessary information needed to gain SHARC's approval at the first application approval meeting"*

SHARC Response

- Whenever possible, we strive to meet face to face with the homeowners. However, due to time constraints or home owner's requests, some responses are made by phone, email and letter as well.
- As always, SHARC strives to adhere to timelines as put forth by the CC&Rs.

g) *"All SHARC meetings, which review home owner applications for approval, shall be held with applicants and those who signed the application as abutting neighbors invited to attend, at a reasonable date and time, and notified well in advance of the meeting of its date, time and place."*

SHARC Response

- SHARC agrees to welcome homeowners who wish to be present at the submission of their application for SHARC review.
- We agree to continue to publish our meeting dates and welcome all homeowners that choose to attend.

h) *"Require SHARC to meet both CC&R deadlines: thirty days for review of applications for completeness and 35 days for approval once application is complete. Make every effort to reduce processing times to the absolute minimum. When deadlines are not met, notify in writing, as soon as possible, the applicant of the CCR consequence"*

SHARC Response

- Among SHARC's goals has been to review and approve applications within 30 days. However, you should be aware that Sec 3.4 of the CC&Rs states that SHARC has 30 days to accept an application for submission or to respond to the applicant with a request for additional information within that time frame. Any application not resulting in such a communication

	<p>within that deadline is deemed to be "Sufficiently Submitted" at that time.</p> <ul style="list-style-type: none"> ▪ After an application has been "Sufficiently Submitted," SHARC must take action within 35 days. ▪ Thus, the CC&Rs provide a total of 65 days for SHARC to respond to an application with an approval or otherwise. ▪ To our knowledge, SHARC has <u>never</u> allowed these 65 days to lapse. In fact, SHARC has held itself to the much more stringent standard of 30 days <u>even though not required by the CC&Rs.</u> ▪ As for notifying the applicant in writing that they may exceed deadline limits, we do the best that we can when communicating with our home owners, however, we feel that it is incumbent on the home owners to be familiar with the CC&Rs as well.
<p>Action Items</p>	<ul style="list-style-type: none"> ▪ Ed Ricketts <ol style="list-style-type: none"> 1. To introduce a motion at the next BOD to the officers that, just as Ed has proposed to SHARC members: All BOD member should ensure that they follow all CC&Rs, guidelines and By Laws to the fullest extent 2. Ensure that the "screening" of equipment issue and what constitutes screened vs. visible is brought up to the CC&R Committee for review and dispositoining 3. Ed to introduce into discussion at the next BOD meeting: Which documentation is correct with regard to SHARC membership control? Is it 'By Law 8.1 – Committee' OR is it CC&R 'Section 3.3 – Architectural Control Committee' 4. Ed Ricketts and John Carter to engage legal services to interpret #3 further in an effort to determine if Ed Ricketts has authority over SHARC members and job roles <i>(Note: this was highly contested by those home owners present as waste of association money)</i> Deb Burns <ol style="list-style-type: none"> 1. Do discovery on SHARC files and catalogue submittal date vs. action date for all requests from 1/2004 through present except those that have been presented to or overruled by the BOD. SHARC <ol style="list-style-type: none"> 1. Adopt suggestion made by Jim Alford that SHARC meet twice per month; one meeting open to accept and discuss requests with home owners, the other meeting to complete discovery and evaluation at next meeting 2. Review and refine SHARC Improvement Application Check List and the Shadow Hawk Architectural Review Form as proposed by Deb Burns. 3. Discuss any new member applications at next meeting

	4. SHARC acknowledges the verbal resignation of Molly Carter on 4/24/05 and Ron Thuener on 5/1/05.
Next Meeting	Thursday, May 5, 2005 at 2173 Talon Drive – 6pm