

The Malvern Communicator

October 2009

A Message From our President

The Board's primary charter/responsibility is maintaining Malvern as a beautiful and peaceful place to live. This requires keeping a close eye on the appearance and functionality of all our roads, common areas and association structures as well as Malvern's residences. We welcome any input pertaining to achieving the best results possible in this endeavor.

There was a substantial amount of work completed on the pool before it opened, including a great deal of repair work on the pool itself. We have more to do including the replacement of the old pool cover.

As most of you are aware there was a significant problem with the culvert on Liberty Lane. It had become a safety issue which meant it became a priority to repair. The initial work was started and completed the week of 7 September. The old culvert was replaced with a new larger diameter and extended corrugated metal culvert. The asphalt will be replaced once the pipe trench has had time to settle. This will most likely occur next spring along with other pavement repair projects needed in Malvern.

We have replaced our signs to meet all VDOT requirements and will be soliciting the Board of Supervisors to allow the Madison Sheriff's Department to provide traffic enforcement on Malvern's roads. The problem with speeding and running stop signs remains as both a legal and safety issue.

The budget for next year is contained in the newsletter and I hope everyone takes the opportunity to review it as we have several expenditures, especially regarding the clubhouse and street repairs that we need to address in 2010.

I would encourage everyone to take a look at the Rules and Bylaws one more time. We will be voting upon them as the first item of business at the October membership meeting.

In closing I would like to see every household represented at the meeting. If you cannot make the meeting please provide your proxy to another resident to bring to the meeting. Remember, you can either request that the individual vote the exact way you want (preferably by including a marked up copy of the suggested changes from the newsletter) or you can have them vote however they want to vote.

Respectfully,
Gerald Monnat, Board President



Upcoming Malvern Events

SEMI-ANNUAL MEMBERSHIP MEETING

What: Regular Meeting (Bylaw requirement)
Where: Malvern Clubhouse
Date: Saturday, October 17, 2009
Sign in: 9:30 until 10:00 a.m.
Meeting: 10:00 a.m.
Why: 2010 budget items and 5-year plan; proposed bylaw and covenant changes

COMMUNITY YARD SALE:

Date: Saturday, October 3, 2009
Time: 8:00 am until 2:00 pm
Rain date: Sunday, October 4, 2009
Location: Malvern Clubhouse
More details: Contact Joe Graham at 948-7060
<http://malvernofmadison.org/community.shtm>

LAW ENFORCEMENT NOTICE

The Board of Directors will soon file a request to the Board of Supervisors of Madison County that the Supervisors enact an ordinance designating our roads as "highways" for law enforcement purposes. Passage of the ordinance would only grant police the authority to issue a ticket for a traffic violation observed along streets in Malvern. The status of our roads would otherwise remain unchanged – in other words they are still private and still maintained by Malvern residents. Notification to Malvern residents was one of the three requirements placed by the Board of Supervisors at their July 10, 2007 Board meeting. Providing a certification of speed limits and road signs, and having the Board of Directors submit a formal request were the other requirements.

Board of Director's Recommended 2010 Budget

		2008	2009	2009 YTD	2010	
		Actual	Budget	Actual	Budget	
1	Regular Assessment	\$69,900	\$122,850	\$98,180	\$122,850	234 lots at \$525 per lot
2	Special Assessment	\$29,000	\$0	\$250	\$0	Not currently necessary
3	Boat Fee	\$120	\$105	\$135	\$105	7 lots at \$15 per lot
4	Rentals	\$3,915	\$2,750	\$2,340	\$3,500	
5	Late Fees	\$60	\$100	\$385	\$100	
6	Road Impact Fee					0 lots at \$1,000 per lot
7	Money Market Interest	\$727	\$700	\$458	\$700	
8	Mowing & Misc	\$1,430	\$1,500	\$1,305	\$1,500	Bush hogging and packets
9	Pool Income	\$2,535	\$2,500	\$2,500	\$2,500	125 keys at \$20 per key
10	Withdraw from reserve		\$5,745			
11						
12	Total Income	\$107,687	\$136,250	\$105,553	\$131,255	
13						
14						
15	Administration	\$963	\$1,500	\$758	\$1,505	
16	Capital Improvements	\$2,457	\$35,000	\$25,318	\$32,500	Fuel tank, HVAC, pool area, signs
17	Insurance	\$2,723	\$3,000	\$2,781	\$3,000	
18	Taxes/Licenses (MCI)	\$25	\$25	\$205	\$250	
19	Loan - Dam & Roads	\$37,070	\$35,000	\$34,974	\$32,900	Required minimum payment
20	Loan - Roads (original)	\$23,776	\$23,775	\$23,669	\$0	Loan paid off in 2009
21	Maintenance - Bldg, Grounds	\$9,841	\$9,500	\$3,767	\$9,500	Mowing, routine maintenance
22	Maintenance - Roads	\$5,067	\$10,000	\$5	\$33,000	Snow, patching, Sylvan culvert
23	Mowing & Misc.	\$1,220	\$1,400	\$610	\$1,400	Bush hogging
24	Operations - Clubhouse	\$1,908	\$2,000	\$708	\$2,150	
25	Operations - Pool	\$4,322	\$4,000	\$2,606	\$4,500	Keys, chemicals, operations
26	Electric	\$2,702	\$4,400	\$1,512	\$4,400	Average daily cost of \$12.00
27	Fuel	\$3,109	\$4,000	\$1,998	\$3,500	1000 gallons at \$3.50 per gallon
28	Telephone	\$366	\$400	\$211	\$400	
29	Legal/consultant	\$0	\$2,250	\$1,230	\$2,250	
30						
31	Total Expenses	\$95,549	\$136,250	\$100,352	\$131,255	

YTD (year-to-date) is through August 21, 2009

The Board of Director's recommends the membership approve the following:

1. Capital Improvement in the amount of \$32,500 for fuel tank disposal, replace clubhouse HVAC, pool area repairs/maintenance and sign replacement as needed, plus \$29,500 (included as a part of line 22, road maintenance) for patching and Sylvan Lane culvert replacement. Approval requires two-thirds affirmative vote of members voting either in person or by proxy.
2. Approval of the annual budget insofar as it relates to current operating expenses. Approval requires a majority of the votes cast.

Malvern Club, Inc. – 5-year Plan (revised September 30, 2009)

Item	2009	2010	2011	2012	2013	Comments	Responsibility
Clubhouse							
Window Repairs				\$6,000.00		Replace/repair windows as required	Clubhouse/pool
Walkway repair						Repair damaged walkway around clubhouse	Clubhouse/pool
Fuel Tank Removal		\$4,000.00				Full tank removal or fill with sand	Clubhouse/pool
Heating and AC		\$24,000.00				Replace entire system	Clubhouse/pool
Well Pump			\$4,000.00			Anticipated pump replacement	Clubhouse/pool
Carpet and Furniture				\$10,000.00			
Playground							
Playground Replacement/Upkeep			\$4,500.00	\$4,500.00	\$4,500.00	Add new playhouse w/slide 10 and another piece in 2011, 3rd piece in 2013	Clubhouse/pool
Pool							
Replace tile around pool water line and reseal pool (paint inside)	\$15,000.00						Clubhouse/pool
Repair Upper Deck and deck fence		\$4,000.00	\$4,000.00			This needs to be completed to preserve the integrity of the concrete- the fence is rotten.	Clubhouse/pool
Repair Concrete (Lower Deck)						Resealing pool area concrete	Clubhouse/pool
Perimeter pool fence			\$6,000.00			Repair or replace as necessary	
Lake							
Carp				\$600.00		Start adding carp every two years (smaller quantities)	Common areas
Dock Repairs			\$10,000.00			2009-2010 general maintenance; 2011 anticipate having to complete major structural repairs on Clubhouse dock	Common areas
Dam maintenance reserve				\$10,000.00	\$10,000.00	Start reserving money in 2012 for future maintenance.	Common areas
Dam Inspection	\$1,750.00					Current inspection expires 3/21/2009	Common areas
Roads							
Signs	\$500.00	\$500.00	\$500.00	\$500.00	\$500.00		Roads
Routine Road Repair	\$5,000.00	\$29,500.00	\$10,000.00	\$10,000.00	\$10,000.00	Routine road repairs based on recent repair costs and increased costs for labor and materials	Roads
Bridge maintenance				\$10,000.00	\$10,000.00	Culvert/embankment maintenance	Roads
Reserve allocated for future repaving			\$40,000.00	\$40,000.00	\$40,000.00		Roads
Culvert repairs	\$19,500.00					Liberty/Sylvan in 2009	Roads
Mailbox area			\$2,000.00			Repaint and general repairs	Common areas
Income from dues (\$525 per lot x 234 lots)							\$122,850.00
Other income							\$7,650.00
Starting balance							\$48,438.00
Anticipated Yearly Income							\$131,422.00
Anticipated Fixed Expenses							\$31,967.00
Loan repayment							\$58,643.00
5-Year Plan Expenditures							\$41,750.00
Ending balance							\$47,500.00
Inflation factor for fixed expenses:							5%

CURRENT BOARD MEMBERS:

Jerry Monnat:	President	Lee Rees:	1st VP & roads
Pat Kaplon:	2nd VP & Architecture	Ed Johnson:	Treasurer
Barb Flynn:	Secretary	Rick Curtain:	Clubhouse and pool
Jason Woodward:	Grounds and lake		

PROPOSED BYLAW AND COVENANT CHANGES:

The original Covenants for Malvern were recorded in November of 1970 and modified in April 1972. With the exception of periodic additions there has been no known comprehensive review since that time. Based on this and at the request of a Malvern member, the Board of Directors reinstated the Rules Committee and charged them with reviewing and making recommendations to change Malvern's existing restrictions and/or by-laws, if necessary.

Board President Monnat appointed Board member Kaplon to chair the committee. The committee included a number of other residents and they held open meetings on a weekly basis from July 2008 through February 2009. The Board then presented the committee recommendations to the membership for review, comment and discussion at the Annual Meeting on April 25th, 2009.

The committee recommendations are again presented on the following pages for your information and review prior to the Regular Meeting on October 17th. It is intended that the membership vote on these proposed changes during the October 17th meeting.

Proposed By-Law and Covenant Changes for Malvern Club, Inc.



Existing wording is in black; ~~lined through wording is existing wording proposed to be deleted~~;
New wording is bold and underlined

A. BY-LAW III, MEMBERSHIP

SECTION 2. MEMBERSHIP REGISTER. **(a)** Membership shall be duly recorded on a Membership Register. This Register shall contain the names, addresses, and telephone numbers of all members; the date of acquisition of membership; the name in which the membership is held, if held in joint ownership; the amount and date of each assessment fee paid; and if applicable, the date and cause for suspension of membership in good standing. ~~In addition to the inclusion of the foregoing on the Membership Register, membership shall be certified by issuance, upon receipt of assessments as required, of an identification card to each member specifying the name and current lot number (s).~~

(b) Upon receipt of assessment payment residents shall receive two vehicle identification decals to be displayed on the vehicle's rear or back window until such time as the vehicle is sold or the property vacated. The Association may grant additional decals upon request.

Rationale: Eliminate the requirement for identification cards for each member and instead provide vehicle decals to help validate those using common areas.

B. BY-LAW IV, PROPERTY RIGHTS: RIGHTS OF ENJOYMENT

SECTION 3. INFORMATION TO THE TREASURER. **(a)** All members shall notify the treasurer, in writing, of any changes in address, telephone number, status of Malvern Property ownership, and family membership.

(b) All members shall notify the Treasurer, in writing, when their property is leased, including the number of tenants, names, and contact telephone number and a statement declaring that the tenants have been provided a copy of the documents and rules and regulations of Malvern Club, Inc. The duration of the lease shall not be for less than one (1) year without written approval of the Association.

Rationale: Add this section to state property owner obligations when tenants occupy the property. To inform Malvern Club, Inc. of changes in residency, which is needed for the use of recreational facilities, to make certain that tenants understand the rules and regulations that apply to residents and to protect property values by prohibiting short term leases. This does not in any way conflict with The Deed of Dedication #4, which clearly states that all lots must contain only one single-family residence and does not allow for apartments within residences or on lots.

C. BY-LAW V, ORGANIZATION

SECTION 1. PURPOSES. The purposes of this organization are those set forth in the Articles of Incorporation and Deeds of Dedication and further:

To own, operate, conduct, and maintain a membership club, clubhouse, **and** recreation **areas for the use** centers, and recreation and assembly rooms, and other facilities for the purpose of providing for the members' entertainment, sport, recreation, and instruction of all kinds; to furnish, equip, and decorate such clubs and clubrooms; ~~to promote social and friendly activities among the members of such club or clubs and their guests and to provide and supply any and all appurtenances that may be necessary, useful, or convenient for the carrying on of sports, recreations and diversions of all kinds and descriptions for the entertainment, welfare and convenience of the members of such club or clubs and their guests and friends.~~

Rationale: Revises the obligation of the association to provide facilities for members' recreation to be more in tune with current usage.

Proposed By-Law and Covenant Changes for Malvern Club, Inc.

D. BY-LAW V, ORGANIZATION

SECTION 2. POWERS. In fulfillment of these purposes, the Club shall have the power further to:

(a) Contract for all services and expertise, such as attorneys, engineers, auditors, tax consultants, architects, etc. as may be required in connection with litigation concerning the Club;

(b) Employ such personnel as may be required;

(c) Establish budget formation and approval procedures;

(d) Enforce collection of assessments owed by initiating court proceedings against any members whose payment thereof has not been made within sixty (60) days of the date of notice of assessment.

(e) Restrictions, rules and regulations may be enforced by any method normally available to the owner of private property in Virginia including but not limited to application for injunctive relief or damages. The Club, or its successor or the owner of any lot may bring such action.

(f) The Club shall also have the power to suspend the right to use facilities or services, assess charges against and suspend voting rights of any member for any violation of the declaration or rules and regulations.

The foregoing statement of corporate purposes and powers shall not be construed as restricting or limiting in any way the general powers of this corporation, or their exercise and enjoyment, as they are defined in the Articles of Incorporation or expressly or implicitly granted by the laws of the Commonwealth of Virginia.

Rationale: Add this covenant to state that Malvern Club, Inc. or any member thereof, in accordance with the Code of Virginia, may enforce the provisions of the Deed of Dedication and By-laws.

E. BY-LAW VII, BOARD OF DIRECTORS

SECTION 3. REMOVAL. A director may be removed from office by a vote of 75% of all eligible votes of the Club. **A director who is absent for three(3) Board meetings in any six(6) month period may be removed by a majority vote of the Board of Directors.** In ~~which~~ **each** case, the vacancy shall be filled pursuant to the provisions of Section 2 above.

Rationale: Add language that allows the board to remove a director who fails to attend 3 regular meetings in any 6-month period to ensure that the director is participating in the process of running the corporation.

F. BY-LAW VIII, OFFICERS

SECTION 3. PRESIDENT. The president shall preside at all meetings of the corporation or the Board of Directors at which he is present, shall exercise general supervision of the affairs and activities of the corporation, **shall co-sign checks for more than \$2,500,** and shall serve as a member ex-officio of all standing committees.

Rationale: To add wording that allows the President to co-sign checks for more than \$2,500. This is currently incorrectly placed in the Deed of Dedication.

G. BY-LAW VIII, OFFICERS

SECTION 8. APPOINTMENT OF COMMITTEES.

The Board of Directors shall, by appointment from ~~among~~ the Club members, annually designate ~~chairmen~~ **chairs** of the following standing committees: ~~(a) auditing, (b) architecture and community goals; (c) maintenance, safety and security, and (d) operations~~

1. Architecture

2. Grounds/lake

3. Clubhouse/pool/playground

4. Roads

5. Rules/Covenants

Proposed By-Law and Covenant Changes for Malvern Club, Inc.

In addition, the president may appoint chairmen of special committees as he may deem ~~desirable~~ **necessary** and shall provide for their powers and duties. Such appointments shall be subject to the approval of the Board of Directors.

Rationale: Revise to be more in line with current committee operations and to add rules/covenants as a standing committee to assist with amendments, interpretations, education and questions.

H. COVENANT #2

The lots designated in **Malvern** the subdivision shall be used for residential purposes only, ~~and no~~. **No** profession, business, trade, enterprise or commercial activity of any kind or ~~any~~ nature shall be conducted or carried ~~on~~ **out** upon any said lot or within any **existing** dwelling **or** hereinafter erected thereon, **excepting those defined as a By-Right Home Occupation by the Madison County Zoning Regulations for A1 areas, for which written approval of the Association must be requested.** ~~without the express written approval of the developer or the Property Owner's Association.~~

Rationale: Revise to emphasize the residential status of Malvern and to allow the Board to approve home based occupations, primarily home offices, under specific conditions that do not change the character of Malvern or violate Madison Zoning Ordinances as follows: Home Occupation (paraphrased from the definition contained in the Madison County Zoning regulations) is an occupation limited to persons who reside on the premises where there is no evidence that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than a dwelling or accessory building thereto; conducted solely within the home without employees other than those who reside on the premises and without any customer traffic to the home, and; shall use no mechanical equipment over 5HP other than that which is normally used for domestic or household purposes.

I. COVENANT #5

5. No structure, ~~whether~~ residence, accessory building or other improvement **structure** shall be constructed **upon any lot without the prior written approval of the Association.** ~~or maintained upon any building lot and no~~ **No structural alterations, excavations, walls, fences or other improvement, which alter the exteriors of any property shall be made or done without** ~~to the exterior of the structure shall be made unless there shall have been first submitted to and written approval obtained from~~ **of the Property Owner's Association.** ~~of the~~ **Appropriate Madison County building permits shall be submitted with the** complete final plans, specifications and design thereof showing the exterior, [comma removed] height, elevation, building material, color scheme, and further setting forth the location of said structure **or improvement** plotted on a plat of said lot. All such structures shall be set back ~~from~~ at least one hundred feet from the edge of all roads and at least sixty feet from all side lot lines ~~unless prior written consent to locate such structures elsewhere is obtained from the developer or the Property Owner's Association.~~

Rationale: Reword to clarify property owners obligation for proposed building or improvements to property in order to pass architectural review and approval and not violate Madison County Zoning Ordinances.

J. COVENANT #7

No structure of a temporary character, trailer, house-trailer, tent or other outbuildings shall be used or permitted on any lot or in any area at any time as a residence, either temporary or permanent, ~~without the express written approval of the developer or the Property Owner's Association.~~

Rationale: To remove exceptions.

Proposed By-Law and Covenant Changes for Malvern Club, Inc.

K. COVENANT #10

No signs shall be erected on the common areas, including road easements, excepting by the Property Owner's Association. No sign shall ~~signs may~~ be erected on any lot other than one individual lots **except the following: a sign not to exceed two(2) square feet in size may be erected** designating the identity of the owner thereon, ~~of said lot.~~ and in no case shall a sign exceed in size two square feet and the design of such sign shall be subject to the prior approval of the Property Owner's Association or the developer. **A traditional real estate sign not to exceed four(4) square feet may be erected on the lot that is for sale and must be removed within one(1) week of the final sale of the property. A construction company sign not to exceed four(4) square feet may be placed on the lot only during construction. Any other signs require written approval of the Association.**

Rationale: Revise to clarify the posting of signs on common property and owners lots. To allow residents to post temporary real estate and construction signs on lots, while prohibiting them from posting signs along roadways and other common property.

L. COVENANT #12

Owners of occupied or unoccupied lots shall at all times keep and maintain their property in this development in an orderly manner to prevent **its becoming unsightly, hazardous, or a nuisance--and shall prevent** and eliminate an accumulation of any garbage, rubbish, ~~rubbish,~~ **refuse,** debris and ~~or~~ other like material **materials that are deemed objectionable** on the premises.

Rationale: Revise to clarify owners' obligation to maintain their property in a manner which preserves the safety and quality of the neighborhood.

M. COVENANT #13

No cutting of any evergreen trees whose trunk diameter shall be in excess of four inches ~~or~~ **or** deciduous trees whose trunk diameter shall be in excess of six inches shall be permitted without the prior written approval of the Property Owner's Association ~~or the developer.~~ **Malformed, damaged, dead, rotting, or those trees that threaten property may be cut and removed.**

Rationale: Add language to allow "problem trees" to be removed without approval of the Association.

N. COVENANT #17

No hunting shall be allowed upon any lot or ~~the common area,~~ **areas,** and no firearms ~~or weapons of any kind~~ shall be discharged in the subdivision ~~except as authorized by the Property Owner's Association.~~

Rationale: To provide for the safety of the residents no hunting or use of weapons shall be permitted within the subdivision.

O. COVENANT #18

No animals, livestock or poultry of any kind shall be raised, bred, kept or maintained for commercial purposes. Common household pets shall at all times be the responsibility of the owner, shall be under the owner's control, and shall not be allowed to become a nuisance or a danger to the community. Dogs that become a problem to the community may become subject to a leash requirement by order of the Association.

Rationale: Renumber and add this covenant to clarify owner's obligation regarding pets.

Malvern Club Inc.
905 Malvern Drive
Madison, VA 22727



ADDRESS CORRECTION REQUESTED

PROXY

(I)(We), _____ and _____ as owner(s) of the following Lot(s) _____ Malvern Club, Inc. under the provisions of the duly recorded legal instruments governing said Club, do hereby grant my/our Proxy to _____ of Malvern Club Inc., owner of Lot # _____. This proxy is executed and carries with it the full right of the members. This Proxy is executed for the 2009 Regular Meeting, to be held on Saturday, October 17, 2009, 10:00 AM, at Malvern's **Clubhouse**.

Signature (Owner): _____ Date _____

Signature (Owner): _____ Date _____

Instructions: Each lot is entitled to one vote; please indicate all lots owned. This proxy may be used to satisfy QUORUM requirements of 50 members voting in person or by proxy. Items to be voted upon during the Regular meeting are: 1) the 2010 capital improvements budget, 2) changes to the bylaws and covenants. Approval of both items require a two-thirds affirmative vote of members voting either in person or by proxy. You may ask the member you assign this proxy to vote your wishes or to vote in the same manner as the member will vote. Please **DO NOT** assign your proxy to the Board of Directors.