

Merifield Acres Newsletter

Vol. XIV, No. 2

October 17, 2008

The common interest community known popularly as Merifield Acres is composed of multiple contiguous and noncontiguous platted units. Elected by property owners in good standing, the volunteer Board of Directors of the Merifield Acres Landowners' Association (MALA) and the volunteer Architectural Committee tend to the day-to-day business of the community. With courtesy, communication, and cooperation, and in an orderly manner, property owners in Merifield Acres share responsibility for maintaining the security, roads, and appearance of Merifield Acres, thereby protecting its peaceful and wooded surroundings, enhancing property values, and preserving Merifield Acres as a highly desirable place in which to live.

For the information of the entire Merifield Acres community, MALA Assessment Collection Rules and Regulations and Dangerous Trees Rules and Regulations are appended to this Newsletter for your thoughtful review. If you care to comment on either document or both, feel entirely free to communicate by no later than Monday, December 8, 2008, for the first, with Treasurer Greg Sansing (gregsansing@earthlink.net; 374-0115) and, for the second, with Common Areas and Facilities Chair Clinton Dalton (cdalton@kerrlake.com; 374-2338) or Roads and Maintenance Chair Bill Woodfin (thewoodfins@kerrlake.com; 374-3889).

At the **September 28, 2008, Annual Meeting**, the MALA Fiscal Year 2009 Budget developed by the Finance Committee, Treasurer, and Committee Chairs and recommended by the Board was approved by the Association membership by a wide margin. The issue whether or not "above-ground swimming pools are consistent with the character of Merifield Acres" resulted in the vast majority of those responding not in favor of above-ground pools. This expression of the community will be considered in future developments concerning this matter.

At the Annual Meeting, property owners in good standing elect one new member to the three-member Architectural Committee and new members to the nineteen-member Board of Directors from whose number the Directors elect the upcoming year's officers. At the 2008 Annual Meeting, President Ben Jackson presiding, re-elected to the Board were Jerre Mabrey, Billy Wells, and Richard Wikle, and newly elected were Philip Beck, John Gilmore, FJ Hale, Tim Tetreault, and Bob Wenning, and to the Architectural Committee Pat Rost. A markedly higher number of ballots were returned in 2008 than in 2007. Officers serving through the 2009 Annual Meeting are President Jackson, Vice President Mike Cottrell, Treasurer Greg Sansing, and Secretary Cathy D'Amato. Database Assistant Treasurer is Joyce Woodfin. Parliamentarian is Mike Cottrell. Kevin Hensley is Architectural Committee Chair.

Merifield Acres property owners in the Merifield Acres, Inc., units for whom an annual assessment is mandatory and therefore subject to the Virginia Property Owners' Association Act are reminded that the seller shall disclose in the contract that the property is located within a common interest community subject to the VPOAA that requires the seller to provide an association disclosure packet to the purchaser. To promote communication, property values, and harmony, it would be helpful and most

appreciated if the seller of a lot in a non-mandatory unit provided a Merifield Acres Information Packet to the purchaser. A MALA Disclosure Packet or a Merifield Acres Information Packet is requested from the MALA Treasurer, PO Box 70, Clarksville, Virginia 23927.

Since the 2007 Annual Meeting, the **Architectural Committee** has approved six new houses, five additions, three detached garages, one shed, deck, pergola each, with one disapproval. The Chair reminded property owners that political signs are not permitted, that is, within Fielding, Holly Park, and Merifield Acres, Inc.

Appearance and Beautification is looking for volunteers to maintain specific street markers for the year 2008-2009. This would consist of keeping the sign itself in good condition as well as the area around it. Paint and paintbrushes would be provided. If you (or several of you) on your street would like your street marker to look attractive, this is your chance to improve your street entrance and Merifield. If you are interested, please notify Chair Sandi Silka, 374-5416, or ssilka@earthlink.net.

Possibly because word has spread of the well-maintained facility, **Aviation** reports that aircraft activity has increased on the runway--several resident and transient aircraft have been in and out. **Common Areas and Facilities** informs that President Jackson, Vice President Jerry Billingsley, and Chair Clint Dalton met with Curtis Pope, Michael Womack, and Michael Dobb, US Army Corps, at the John H. Kerr Reservoir on September 9, 2008, to discuss the Merifield Acres entrance. The only easement that we have at the present is a 40-foot road easement. This easement could be increased by 10 feet under Corps guidelines for a Department of Transportation easement of 50 feet. The additional 10 feet could be all on one side of the road or split to both sides. Additional land would cost MALA a survey and a process fee. And fair market price for land that is less than 1000 square feet. Options at present are to leave the entrance as is or purchase the 10 feet and add features.

Property owners are encouraged to use the tennis court and at Oak Park the stable and picnic tables, playground equipment, and community dock. One key for both the tennis court and Oak Park (refundable \$2.00) can be obtained from Maintenance Manager Ralph Moore (374-2945).

*The Annual MALA Fall Halloween Party, **Community Events** announces, will be held Sunday, October 26, 2008, in Oak Park at 1 p. m. All Merifield Acres residents are heartily invited to attend, whether or not accompanied by a child or grandchild. MALA provides hotdogs, condiments, beverage, plates/utensils. Attendees bring a side dish or dessert to share. RSVP to Jill Allen (374-0399) or Nancy Dahl (374-2161), sufficiently in advance, please, if you plan to attend. Offer to help in pulling off this community event and "be welcomed with open arms". And contact Jill or Nancy if you would like to offer your home as a trick-or-treat stop with "a big thank you from a chorus of shining, grateful faces". Rain date is the following Sunday; a sign would be posted on the Oak Park gate. Costumes are encouraged.*

The Virginia Game Commission has brought two concerns to the attention of **Deer Control**, one concerning deer and the other nuisance animals. Statewide, whether hunting is allowed or not, from September 1, 2008, until January 3, 2009, feeding deer is illegal. Legal are usual vegetable gardens and food plots planted for deer. Illegal is

loose food or minerals specifically for deer. If specifically for birds, birdfeeders are acceptable. Nuisance animals are squirrels, raccoons, foxes, and so forth. Obtained from the Game Commission is a license to trap these animals and permits that spell out specific ways to dispose of trapped animals. Relocating trapped animals is illegal. The local Conservation Police Officer is monitoring activities in Merifield Acres and has already issued warnings for violations.

The controlled deer reduction in Merifield Acres appears to be making a dent in the resident deer population. During 2007, we harvested fifteen deer, of which twelve were does. This year's deer hunt began August 12. As of October 12, 2008, we have taken eight, all of which have been does.

Finance. MALA reserves are currently held in two forms. The first is a four-month Bank of America CD in the amount of \$62,407.00 (8/15/08) at an Annual Percentage Yield of 2.24%. This matures on December 15, 2008, and has an accrued interest of approximately \$175.00 at this point. The second is in mutual funds. The total mutual fund assets of \$76,238.00 (9/20/08) are invested in Fidelity Contrafund (22%), Fidelity Puritan Fund (52%), and Fidelity Spartan US Equity Index Fund (24%). These investments have followed market trends and are down 13.4% from 9/30/07 but are up 34.4% over the last four years (period of immediate record availability). Thus MALA's reserves total approximately \$138,820.00.

As the cost of maintaining and upgrading Merifield Acres' 12.5 miles of roads increases, the reserve sum will begin to decrease.

Governance is focused on thinking through a just and fiscally viable relationship among the successive ten developments collectively known as Merifield Acres, all of which have covenants. The possible revision of Bylaws I: 2. Association Membership, the Committee decided to postpone until 2008-2009, along with additional possible revisions to the MALA Bylaws. During 2008 to date, and with input from the President, Committee Chairs and other Board members, past Treasurers, the Maintenance Manager, and individual Association members, the Governance Committee prepared the following documents:

- Thoughts on MALA and Architectural Committee Authority and Outline of Rules and Authority (authority for MALA rules and regulations and Architectural Committee guidelines must be granted by either federal and state law, including the Virginia Property Owners' Association Act [VPOAA], or Mecklenburg County statutes, the Merifield Acres, Inc., covenants, The Merifield Acres Landowners' Association Charter, court orders, or other pertinent documents, such as transfer of authority for Fielding and Holly Park in 1983 from Mary Frances Lewis to MALA);
- MALA Assessment Collection Rules and Regulations (Board-approved 8/12/2008);
- Dangerous Trees Rules and Regulations with first and second letters of notification (draft 7/24/2008);
- letter to area broker owners clarifying Merifield Acres mandatory and non-mandatory units, to which copies of the Letter of Information for the MALA Disclosure Packet and the Letter of Information for the Merifield Acres Information Packet will be attached.

Still in progress:

- VPOAA Disclosure Packet Statement 3 Re. Charges, Deposits, and Fees (draft 7/30/2008);

- Working Relationship Between the MALA Board of Directors and the Architectural Committee; and
- In response to the State legislature's creating the Office of the Common Interest Community Ombudsman, a revised Bylaws III: e. Arbitration of Disputes and an Architectural Committee and MALA Internal Complaint Process (drafts 7/15/2008), documents that warrant considerable serious thought and widespread membership participation prior to Board approval and recommendation to the membership at the 2009 Association Annual Meeting.

Political and Environmental relays that two days after John Feild, past Resource Manager for Kerr Reservoir and current board member of the Roanoke River Basin Association, addressed the April 8, 2008, MALA Board Meeting about the water flow management plan for the Roanoke River Basin, known as HL8 as proposed by the Corps of Engineers, Raleigh, Cary, and Durham applied to the Corps for 50,000 acre feet of water from Kerr Lake/Buggs Island Lake. The Corps of Engineers has since said that no action is to be taken on their request to draw water from Kerr Reservoir for a period of three years. During the Board Meeting immediately following the Annual Meeting, the motion was made, seconded, and passed unanimously that the Board support the resolution:

The Board of Directors of Merifield Acres Landowners' Association, a Buggs Island lakeside community of 700 plus lots, in the interests of the community, does hereby offer our support to the "Hydro Logics" 8 Model as a compromise proposal for the Roanoke River Watershed. We also offer support to Mayor Kevin Allgood of the town of Clarksville, Virginia, and request that he act as our spokesperson at the upcoming meeting of the Virginia State Water Control Board.

After getting the roads in good shape in 2007 followed by a mild winter that did not cause deterioration, **Roads and Maintenance** decided not to repave any roads in 2008. Instead, we will bank our budget and combine it with the 2009 budget for next year's paving. A list has been compiled for next year's paving. If you know of any bad spots, feel free to call Roads and Maintenance Chair Bill Woodfin with the location and description and the Committee will check it out.

We had several cases of vandalism, most of which seemed to be acts by children. We continue to pick up trash either thrown or blown out of open vehicles. MALA needs lot owners to take care of any dead or damaged trees that could fall into road right-of-ways.

There have been numerous complaints of people driving recklessly on MALA roadways. Mecklenburg Police have been notified to patrol the roads within Merifield Acres.

Security reminds once more that within Merifield Acres open burning is not permitted, the speed limit is 30 mph, golf carts are not permitted, and dogs are to be kept under control. The restrictive covenants of Merifield Acres, Inc., declare that "pets shall be restricted to the Lots, and will not be allowed to run at large" (4). If the dog is simply friendly but annoying, speak with the owner directly; if the dog appears dangerous, call the Security Chair.

Welcoming greeted six new full-time families since the 2007 Annual Meeting. Please leave surplus plant pots and saucers at Chair Martha Day's garage door. More

important, as you become aware of new residents, please notify her, newcomers' telephone number, too, if possible.

The **MALA Website** is www.kerrlake.com/mala. MALA can be reached at PO Box 70 or mala@kerrlake.com. The **Merifield Acres email address book** is used for Merifield Acres property owners to communicate with the Board and its Officers and Committee Chairs, for MALA to announce community events, and for communication within the community generally. *To add or change your email in the Merifield Acres email address book, email the correct address to mala@kerrlake.com.* For the non-commercial use of Merifield residents only, the **2009 Merifield Acres Directory** of full- and part-time homeowners will be prepared and mailed by the end of 2008 to all Merifield Acres homeowners. For all improved properties, the Directory will include name(s) and local address, including PO Box if desired, telephone number, Unit and lot number. *Any homeowner aware of an error or omission in the 2008 Directory is asked to bring the necessary correction to the attention of Co-editor Martha Day (mcday@meckcom.net) by the end of this October.* If anyone has an item of interest to the general Merifield Acres community for possible inclusion in the March **Merifield Acres Newsletter**, kindly communicate the item to Editor Martha Day by March 1, 2009. The Newsletter is mailed to all Merifield Acres property owners.

The next bi-monthly meeting of the MALA Board of Directors will be held Tuesday, December 9, 2008, in the room to the rear of the Clarksville Public Library at 7:00. (Should there be a last-minute change, contact President Jackson for verification of place and time.) Scheduled early on the meeting agenda is an Open Forum at which time Merifield Acres residents in good standing are most welcome to make themselves heard.

MALA ASSESSMENT COLLECTION RULES AND REGULATIONS

- I. MALA recognizes two (2) different classes of property owners, A. Mandatory Annual Assessments and B. Voluntary Annual Assessments:
 - A. Mandatory Annual Assessments—Merifield Acres, Inc., Units MF 1, RP 6, 7A-D, 8A-E, 9A-C, 10, and 11 (July 20, 1976--March 1, 1991)—

1. For Unit MF 1, an older development, per exchange for accepting the Merifield Acres, Inc., covenants (November 20, 1977), the mandatory annual assessment is \$50.00, without a dwelling or with a dwelling.
2. For Unit RP 8A, per amendment of its Merifield Acres, Inc., covenants (June 15, 1989), there is a reduced assessment scale with a not more than ten (10%) percent increase per annum tied to increase in costs of operation and capped out at \$100.00 per lot without a dwelling, \$160.00 per lot with a dwelling (2008 was \$70.00/\$143.00).
3. The Merifield Acres, Inc., Units RP 6, 7A-D, 8B-E, 9A-C, 10, and 11 covenant 10. Assessments. (a) reads: "The annual assessment for each Lot shall be [now capped out at \$100.00]; provided [sic] however, that such assessment shall be increased to [now capped out at \$160.00] for any Lot which has a completed dwelling constructed thereon as of January 1 of the calendar year". There are two assessment categories, a lot without a dwelling and a lot with a dwelling. A dwelling is a house having an occupancy permit. A lot with a dwelling that has received an occupancy permit will not be assessed as a lot with a dwelling until a full calendar year has passed. Example: A dwelling receiving an occupancy permit during May of 2008 will not be assessed as a lot with a dwelling until January 1, 2009. The lot will be assessed as a lot without a dwelling for the entire calendar year 2008.
4. Per court order (MALA vs. Girard and Girard, July 17, 2000), multiple lots are not to be combined for assessment purposes. ("The Court in reviewing the evidence finds that there is no basis in the covenants for the Association to combine such lots and although such actions may have been done previously in error, such prior action gives no rise to the Defendant's claim that lots should be combined. . . .")
5. Per court order (MALA vs. Cummings and Cummings, June 30, 1999), a non-perk lot without a dwelling is assessed the same as a lot without a dwelling. ("The Court in reviewing the covenants and restrictions finds that even though the Association did in the past choose not to assess non-perked lots, the covenants which govern the Association's authority make no distinction, either expressed or implied, between perked and non-perked lots".)
6. In the case of a Boundary Line Adjustment (BLA) between two adjacent lots (A and B) approved by the appropriate authority and as permitted by Covenant 1. The Lots. of the Merifield, Inc., covenants, each resulting lot shall be assessed as a lot with a dwelling or a lot as appropriate. For example, if

Lot A is made larger as a result of the BLA to obtain a drain field for the dwelling on A, then the owner of lot A shall be assessed for Lot A as a lot with a dwelling. If there is no dwelling on Lot B, which became smaller as a result of the BLA, then the owner of lot B shall be assessed for lot B as a lot. The basic rule is: lots cannot be consolidated or subdivided and the owner of each is responsible for payment of the assessment for his lot depending on what is on the lot (i.e., dwelling or not).

7. When a dwelling is sited such that the continuous footer/foundation crosses the line between two or more lots, each affected lot is thus encumbered by a dwelling, and each such lot shall be assessed as a lot with a dwelling. (As noted above, the covenants permit the property owner to adjust the boundary line between the lots, provided the appropriate authority approves the BLA.)
- B. Voluntary Annual Assessments–Units PVT, RP 2 (lots 1-10), Lower Cedar Lane (LCL), Lots 19, 21 (on Merifield Drive), Holly Point (HPT), Maplewood Lane (MWL), Fielding Development Co., Inc. (RP 1, 3, 4, 5), and Holly Park (HPK) (March 14, 1957--December 4, 1963)--
 1. For Units PVT, RP 2 (lots 1-10), LCL, Lots 19, 21 (on Merifield Drive), HPT, MWL, RP 1, 3, 4, 5, and HPK, the voluntary annual assessment is comparable to the mandatory annual assessment for Units RP 6, 7A-D, 8B-E, 9A-C, 10, and 11.
 - II. The annual assessment invoices shall be mailed to all property owners of the lots listed above, mandatory and voluntary, as soon as possible after January 1 of each year, including the due date for payment. Included with the mandatory annual assessment invoices **only** shall be the procedure to be followed by MALA in the event payment for the mandatory annual assessment is not received by the due date.
 - III. No sooner than ten (10) days after the due date, a late notice shall be sent to lot owners, mandatory and voluntary, who have not paid requesting payment within thirty (30) days. Included with the mandatory annual assessment late notices **only** will be MALA's cost incurred to pursue the delinquent payment.
 - IV. No sooner than thirty (30) days after the mailing in III, a notice of intent to pursue collection pursuant to the provisions of the Virginia Property Owners' Association Act shall be sent to any Merifield, Inc., lot owner who fails to make payment.

V. These rules and regulations and actions thereto shall be administered by the MALA Treasurer.

MALA Dangerous Tree Rules and Regulations (draft 7/24/2008)

Background: Merifield Acres is a community distinguished by its abundance of trees. The Merifield Acres, Inc., Covenant 8 makes special provision for the protection of trees on lots. MALA has the responsibility to deal with trees on the common areas to include Oak Park, tennis court, airstrip, apple orchard, main entrance, and road right-of-ways. While trees are a source of natural beauty and afford privacy, they can become a source of danger as they die and drop limbs or fall. In addition to the natural die-off due to age, drought and insects increase the number of trees that die. Also, live trees can become a danger as a result of storm influence. Live trees can have limbs hanging too low over the roads (*minimum clearance above road surface to be obtained from VDOT or the County and in the Maintenance Manager's contract*). MALA must anticipate the potential danger to the common area users and facilities associated with dangerous trees and implement rules and regulations to address the situation.

Authority: MALA is the owner of common areas and roads and has responsibility under Merifield, Inc., Covenant 10 for the "general safety" of lot owners. The Virginia Property Owners' Association Act (VPOAA) gives the Board of Directors the power to adopt and enforce rules and regulations with respect to the use of common areas and with respect to such other areas of responsibility assigned to the association by the declaration. Common areas under the VPOAA includes roads.

Rule: MALA through its various officers, Committee members, and Maintenance Manager shall identify any tree that appears to pose a potential danger to the users of the common areas or roads. For such a tree adjacent to power lines, Mecklenburg Electric shall be notified. For such a tree located in Oak Park, tennis court, airstrip, apple orchard, and main entrance, the Chair of the Common Areas and Facilities Committee (CAFC) shall determine whether the tree is a "dangerous tree" that must be removed. For such a tree located near a road, the Chair of the Roads and Maintenance Committee (RMC) shall determine whether the tree is a "dangerous tree" that must be removed.

For a dangerous tree located on common areas: MALA, under the direction of the CAFC, shall promptly arrange to remove the tree.

For a dangerous tree located on a lot, no imminent danger: The Chair (or designee) of the RMC shall send the first notification letter to the lot owner (attachment 1). If the owner fails or refuses to respond to the first notification letter, the President of MALA shall send by registered mail, return receipt requested, the second notification letter (attachment 2). The second notification letter shall notify the lot owner that failure to remove the dangerous tree could result in legal action.

For a dangerous tree located on a lot, imminent danger: If in the judgment of the Chair (or designee) of the RMC and the MALA Vice President, the tree poses an imminent danger to users of the common areas, roads, the danger area will be cordoned off and the lot owner shall be notified by the most expedient means available of the need to remove the dangerous tree. If the property owner cannot be contacted or does not agree to take prompt action to remove the danger, MALA, under the

direction of the RMC, shall take action to eliminate the danger including entering on the lot and removing the tree. Any cost incurred by MALA shall be billed to the lot owner.

attachments:

first notification letter
second notification letter

MERIFIELD ACRES LANDOWNERS' ASSOCIATION
P O Box 70
Clarksville, Virginia 23927

www.kerrlake.com/mala
mala@kerrlake.com

2007-2008 Officers
Ben Jackson, President
Jerry Billingsley, Vice President
Greg Sansing, Treasurer
Cathy D'Amato, Secretary

Date
Mr. /Ms.
PO Box/Street Address
Clarksville, VA 23927

Dear Mr. /Ms.:

The Roads and Maintenance Committee of the Merifield Acres Landowners' Association (MALA) has determined that a tree located on your lot (unit____, lot____) is (*dead, dying or damaged*) and poses a potential danger to the users of the (*road or property*) owned by MALA that is adjacent to your lot. The tree is located (*give a reference to the tree from the common area subject to the potential incursion by the tree and include date-stamped photo*). This tree should be removed because limbs from the tree or the tree itself will likely fall on MALA property and could injure a user and/or obstruct the use of the (*road or property*).

Please respond to me at the address or telephone number below within fifteen (15) days of the date of this letter with your intentions regarding the tree mentioned above. Thank you for your cooperation in making Merifield Acres a safe and pleasant place in which to live.

Sincerely,

(Name), Chair
Roads and Maintenance Committee

(Address)
(Telephone Number)

Enclosures:
date-stamped photo of dangerous tree
list of three (3) vetted tree removers

CC:

*(If addressee is part-time resident,
mail also to alternate address)*

Chair, MALA Architectural Committee
MALA Treasurer

MERIFIELD ACRES LANDOWNERS' ASSOCIATION
P O Box 70
Clarksville, Virginia 23927

www.kerrlake.com/mala
mala@kerrlake.com

2007-2008 Officers
Ben Jackson, President
Jerry Billingsley, Vice President
Greg Sansing, Treasurer
Cathy D'Amato, Secretary

Date
Mr. /Ms.
PO Box/Street Address
Clarksville, VA 23927

Dear Mr. /Ms.:

By the attached letter, Merifield Acres Landowners' Association (MALA) notified you of a tree on your lot (unit____, lot____) that poses a potential danger to the users of MALA property. You did not respond to that letter (*or you responded that you will not remove the tree*). This letter is to notify you that the tree continues to pose a danger because (*of falling limbs or the potential that the tree will fall on MALA property*). If we have not heard from you with your plan to promptly remove the tree within ten (10) days of the signed return receipt confirming that you received this letter, MALA will seek a Court Order to have the tree removed. MALA will also seek reimbursement for our expense in dealing with this matter as well as attorney fees.

It is our sincere desire that you take prompt action to remove the subject tree and notify me of your intentions to do so as soon as possible, but no later than the deadline noted above.

Sincerely,

(Name), President
Merifield Acres Landowners' Association
(Address)
(Telephone Number)

attachment:
first notification letter

CC:

(*If addressee is part-time resident,
mail also to alternate address*)
Chair, MALA Architectural Committee
MALA Treasurer