

NOTES ON NOVEMBER 19, 2018, MEETING at P.C. Library Room 201, 7::30 to 9pm

Attendees: Paul Reddy, Elena Gladson, Hunt Williams, Edy McConnoll Celarec, Joan Benson, Christopher Kautz, Marny Schlopy, Clay Archer, Lucy Archer, Chris Bachman, Karen Brooks, Fred Spencer, Randy Cassidy, Bill Noland, Frank Thomas, Russ Paskowski, Tracy Tanner, Rob Nielson, Tony Molchan, Brian Zilvitis (20 individuals, 17 lots)

Call-ins: Toni Knudsen

Absent: Model HOA Property Managers, John Richards III, Trustee Deb Hartley

Paul Reddy announced the board recently received over 50 emails from homeowners. Thank you!!

Member Forum: My only contribution to this meeting was the allowed 3-minute statement. I reminded the board that the Bylaws (the rules for the board), included since V.14 by Morris & Sperry in the CCRS Declaration have been mostly ignored in the discussions and work meetings. *The "1985 Bylaws Article VII Section 1. Powers. The business, property and affairs of the Association shall be managed and governed by the Board of Trustees which shall have the powers and duties as provided in the Declarations, Articles of Incorporation, these Bylaws, and as provided under the laws of the State of Utah."*

The above section is being increasingly abused and misrepresented by the boards' since 2009. There are to be limits included for what the board is authorized to do or decide; just how far and for what circumstances is the board allowed to take the authority allocated to them by the Homeowners to manage our HOA? Should board authority include disenfranchising the votes of the Homeowners? Or the use of controversial forced-consent "electronic means" for elections and other votes instead of the Bylaws specified "written ballots"?

1.) I have made a calculation of how many SSSF Lot Owners have attended one or more of the October and November 2018 meetings in Silver Springs to ask questions on the V.17 draft CCRs (the draft Bylaws received no attention during these discussions). Using the attendance I marked down at the Town Hall and special meetings I attended, and Model HOA's count of 121 at the 10/25/18 Annual meeting, I charted that there were **240 Homeowners attendees at these meetings**. Some Owners attended one or two or more meetings while seventy did not attend any of these meetings. The attendance is larger than the number of lots in our subdivision due to Homeowners attending multiple meetings. Trustees were counted only once. This attendance and interest by the Homeowners regarding the draft CCRs is record-breaking in comparison to the numbers attending grouped HOA meetings in the past.

The indisputable majority of the discussions at all of these meetings were directed to the underdrain system, and why the board had provided so little information about them since the underdrain committee began to unearth them in 2005. The **CCRs** White Paper that was promised to simply explain the entire Declarations provided by the attorney also nearly exclusively focuses on this terminated County agreement with the Silver Springs Developers' Association. At the Nov. 5th meeting this attorney offered that if it was up to him he would remove the UD's from the HOA documents. It is the underdrain committee that insists on keeping the UD's in the CCRs. The underdrain committee chair then provided misinformation by saying Summit County will not terminate the Developer's position on the 1979-1982 D.I.A. agreement. Summit County Commissioners, County Attorney, County Planning, and other staff have clearly told our board on various occasions that the purpose of a **D**eveloper's **I**nterface **A**greement

is to monitor the progress of work until it is completed; when the County returns the bond to the Developer it marks the termination of the D.I.A. At that point **“the underdrains are a private matter between the Homeowners and their HOA.”** Summit County holds no mandate or order or further expectations for SSSF HOA regarding the 1982 terminated Ray D. Fry Developer’s Interface Agreement. Summit County considers the underdrains matter concluded!

The board has shown little accountability, and has provided no UD cost analysis or information regarding the hefty financial ramifications and the costs by transfer of UD repair assessments to individual homeowners; the UD work damages to property, the stigmatism UDs can create for SSSF; any comparisons of alternative solutions, the affect the increasing drought has had on water resources; the annual reduction of water discharge; the legality of working on a UD system the board or Association does not own and is not on the recorded plats (UDs were installed forty years ago on 94 privately owned lots); the ramifications of splitting our subdivision ***into those who do not have the UDs and those owners who do have UDs under their land;*** and that including the UDs within the Association CCRs is very likely to create clouds on the property titles for those that do. For 40 years there has never been UD legal action. The County Commissioners have told SSSF officers there is an increase in likelihood of lawsuits if the SSSF CCRs include the underdrains under the legal auspices of the HOA. There are still too many questions to answer and no valid reason to hang onto the boondoggle UDs.

And of course, the board is turning a blind eye to the fact that not only is Snyderville Basin in the throes of a long-term drought, but so are the west coast, and the entire world. Climate change scientists foretell that the drought will deepen continually for decades, an inconvenient truth. Our water source, Rockport Reservoir, is less than a third of its usual capacity yet construction of hundreds of new homes persist. The two local water companies, Weber Basin, USGS, and others, have all told us that to continue the use of underdrains to discharge our ground water into our neighbor subdivisions “is foolish and reckless.” So is this a time to be voting to create and include a greatly protested ground water liability situation to discharge seriously needed water by digging into a 40-year-old plastic pipes system that are buried 8’ to 10’ under 94 SSSF private properties?

https://www.washingtonpost.com/energy-environment/2018/10/08/world-has-only-years-get-climate-change-under-control-un-scientists-say/?noredirect=on&utm_term=.419477a7823f

<https://www3.epa.gov/climatechange//kids/impacts/signs/temperature.html>

What is further disconcerting is that the [recently released 64 page V.18 Final Draft Declaration is nearly identical to the 64 page V.17 Draft.\(Find V.17 at this Link\)](#) The requested changes after 100’s of hours of study and discussion by the Homeowners since March 2017 are being ignored by the board. **The board work meetings and Homeowner Town Hall meetings appear to have been only for appearances, going through the motions of considering Homeowner concerns and requested changes, not for actual modifications to the CCRs as were originally written by their attorneys.**

V.18 continues to include all the protested items: the underdrains, the Bylaws, the Arch Standards, Rules & Penalties, too many assessments, all rolled into one document. Topics like foreclosures, assessments to individual owners, capital improvements, excessive snatched power by the board, committee assignments to be limited to one year, reinstating the authority of the Homeowners, the process of candidacy and elections, the manner in which our dues are spent, the overuse of attorneys, the lack of true board transparency, and numerous sections that do not apply to our subdivision (but do apply to the Master Association), all these remain intact. Silver Springs does not own any common area, no amenities, no ratified facilities, therefore there is no need for rules for assessments to manage or maintain them, or to “provide WCF insurance for the board’s employees”. The board expects the

Homeowners to vote on Version 18, available in mid-November 2018, as the “Final Draft” when it does not even show the most fundamental of corrections, removing the name “Directors” instead of what the board members truly are: “Trustees”. The difference between these two titles is legally very important to recognize and represent correctly.

Also V.18 appears to be very similar to the Morris & Sperry V.15, also a 64 page Declaration.

2). Leasing and Non-Owner Occupancy:

Article 20: Section.5 **Requirements for Leasing and Non-Owner Occupancy. [DELETE ENTIRE ARTICLE 20; replace and use the [2014 STATE S.B.147 RENTAL CODE](#)]**

The Owners of all Dwellings must comply with the following provisions:

(a) ~~Any lease or agreement for otherwise allowable Non Owner Occupancy must be in writing, must be for an initial term of at least one (1) year, and shall provide as a term of the agreement that the resident shall comply with the Declaration, the Bylaws, and the Rules, and that any failure to comply shall be a default under the lease or agreement. If a lease or agreement for Non Owner Occupancy (whether in writing or not) does not include these provisions, they shall nonetheless be deemed to be part of the lease or agreement and binding on the Owner and the resident;~~

~~(b) If required in the Rules or requested by the Board, a copy of any lease or other agreement for Non Owner Occupancy shall be delivered to the Association within the time period provided for in the Rules or by the Board with any sensitive information permitted to be redacted. The primary purpose of requesting a copy of a lease is to show that it complies with this Section 20.5 in term and content;~~

~~(c) A Non Owner Occupant may not occupy any Dwelling for transient, short term (less than one (1) year), hotel, resort, vacation, or seasonal use (whether for pay or not) (this is intended to specifically prohibit any Non Owner Occupancy of less than one (1) year through services and listing such as VRBO, Airbnb, Homeaway, VacationRentals, Flipkey, Wimdu, House Trip, and similar services); and (d) and (e)~~

Apparently there are many Homeowners who want to be able to travel for extended periods and do not want to leave their property vacant. At the same time they want to be able to earn income from their property. The majority of attendees agreed with this change, it has not been changed in V.18.

3). The removal of the Underdrains from the SSSFHOA draft and final versions of the Declaration CCRs, also with the Arch and Bylaws removed as stand-alone documents. This has been the headline issue during the 2017 and 2018 Town Hall meetings, and the board “work” meetings at the PC Library, as well as the October 9th , and the 25th Annual Meetings. From the Homeowners the board has received enormous amounts of input, questions, and concerns. in return the trustees themselves seem to have few answers.

An hour into this meeting each trustee read or listed a 3 minute statement explaining how they came to their conclusion on topic 3. Do you remember the early computer term GI/GO? It was obvious that these trustees had looked only at the board website and the one-sided underdrain information posted there. Whether they claimed forensic ability or newly acquired knowledge, it all amounted to rehearsed predisposition. As is the case each year with new trustees, they swarm together as a means of being colleagues, if one shows individuality the fate is to always vote alone. There was no mention by these trustees of any of the other serious issues contained in the 64 Draft pages. Reddy called for a board vote to accept “as is” the Draft “ V.18” to then be presented to the Homeowners for a vote on December 15, 2018. Trustees voted 5 to 1 to proceed. Member advocate and trustee, Hunt Williams was the dissenting vote. Deb Hartley was still out of town.

This Report, and [the V.17 & V.18 CCRs](#), demonstrates the amount of essential work that remains to be achieved before the draft CCRs will be ready for the vote of the SSSFHOA Homeowners. See at this [LINK](#). There are many Homeowners who feel the Association has become too unwieldy and the board too overbearing; the HOA should be Dissolved according to the process provided in our current CCRs and our 2008 Articles of Incorporation. A better organization that meets the simple needs of a single family, stand-alone home subdivision with protective rules and restrictions, that has never owned amenities or common areas, can be expeditiously created with an entirely new committee.

There is an alternative that is becoming popular in Snyderville Basin, and nation-wide, for Single- Family Neighborhoods:

[see [SSSFHOA 2008 Articles of Incorporation](#): Article II: DURATION OF

CORPORATION: The corporation shall have perpetual existence unless dissolved or terminated according to law, and according to the desires and requirements of the 51% majority vote of the Silver Springs Single Family Homeowners.]

The CCRs re-write committee has failed miserably since 2015 in its assignment. Remember that **from 2015 to September 2018 the underdrain committee chairman was also the CCRs re-write committee chair**. When a protest was lodged that this situation created a **huge conflict of interest**, the board made a name change. Currently, a former member of the underdrain committee is the “new” chair of the CCRs re-write committee. This new chair was to use V.17 as a framework to be modified according to the hundreds of inputs and comments from the Homeowners at public meetings, and using emails, and Tickets, and on the [V. 17 Annotated Online Version that includes many Homeowner comments and desired changes](#). Use this [LINK](#).

The rewrite committee’s stranglehold needs to be released. It is time for a whole new body of Homeowners to take the helm. There are **other volunteers** who want to help produce a single-family-homeowners’ document that will benefit and protect our Neighborhood. **A new rewrite committee is definitely a much needed beginning to better produced, clean, Owner-representative documents.**

The December 15th voting date, announced at this meeting, was changed on November 20, 2018 for voting to take place between December 15, 2018 and January 31, 2019. In our ski resort area with winter activities such as Sundance, World Cup type of events, an extended Winter school break, and lots of visitors, etc., Homeowners have voiced a preference to take up the CCRs again after March 31, 2019, with a new committee. This makes great sense.

Also Homeowners requested written, fully executed (signed) ballots as provided in the SSSF Bylaws, that can be easily verified to garner 51% (96 lots) legal votes. Or should 66 2/3% (126 lots) be required for this vote? Which do you prefer, expect and support?

Working toward Positive Solutions,

Lucy Archer

From the corner of the room where he had positioned himself, Noland spoke out saying he had tried to get a statement from Summit County regarding the underdrains but that he had not received a position from them (that he will accept). What I have learned is that the County Commissioners, County Attorney Brickey, Planning & Zoning, Public Works Callahan and Radke, County Clerk Kent Jones, have each provided information, history, minutes, etc. that Noland, Hovey, Zilvitis and Gunter refuse to accept or to include in their biased account of the underdrains. The underdrainers seem so focused on describing gallons per hour discharged and only the initial 1982 DIA between the early developer and Summit County that they have been unable to recognize there is much more to consider, especially taking the Homeowners needs, protections and interests seriously. So here I will insert some Summit County Commission Meeting Minutes that very clearly advise our HOA to not insert the underdrains under the auspices of our Association. The County Attorney statement gives the authority to make the underdrain decisions to the Homeowners, no expectations from the County. The Commissioners implicitly explain that the County does not hold a mandate for our HOA to continue with the 1982 Agreement. The DIA was terminated when the developer's bond was returned to him at the end of the work described in this interface agreement. The Developer's title company failed to include this arrangement in the 1982 Developers documents. Documents that ended when the Developer went bankrupt in 1985, left a tangle of common areas, parking issues, capital improvements, etc. to the newly formed SSSFHOA to sort out. The V.18 does not make the CCRs clearer, it instead has added the Arc Standards, the Bylaws, and the underdrains, all are currently individual items that are easier to modify outside of the CCR's 67% vote requirement process.