

**SILVERHEELS NEW AMENDED COVENANTS COMMITTEE (SNACC)**

**Minutes of 04/13/22 Meeting**

***(7:00 PM via Zoom)***

***Approved at 04/27/22 Meeting***

**1. Attendance & Quorum**

**Members Present:** Rich Bainbridge, Susan Barden, Tony Boccio, Luis Canales, Ann Erdle, Lesley & Ed Hall, Steve & Gail Kloppel, Zach Loos, Mary Manka, Lane Mathison, Mike Peterson, Tyler & Kylie Pontius, Charlie Schultz, Maria Smaldone, Jeffrey Togie, Lillian Wissel.

**Member Joining Late:** Maria Mitchell

**Member Absent:** Natalie Gorak

**Observing:** Laura Biewick

**Quorum:** With 18 Members joining the meeting at the outset, a quorum was immediately established.

**2. Discussion and ratification of change in quorum requirement from 80% to 65% of Voting Members.**

**Background:**

The Notes of the last two Unofficial Meetings (March 30 and April 7) – each rendered “Unofficial” by the failure to achieve a quorum of 16 votes - provide the background for the following summary of subsequent events.

At the April 7 meeting, Susan had proposed that an email be sent to all SNACC Members requesting the right to handle, *via email*, the proposal to reduce our quorum requirement from 80% to 65% of lots represented. Mike and Rich agreed, and suggested further that JB draft and send out an email to explain and provide notice of this proposal and a means for implementing it. After the meeting, JB drafted and disseminated an email to all Members with a summary of the group discussion. The email included two motions (based on the Members’ instructions to him at the meeting) for potentially implementing the quorum reduction via email. The motions are summarized as follows:

**Motion #1:** That we will be deemed to have a quorum for the *sole* purpose of *voting by email on Motion #2 below* if we get 16 YES responses to this Motion #1.

**Motion #2:** Starting with the next Zoom meeting, the quorum requirement will become 65% of the lots represented on this Committee.

JB collected the email votes over the next several days and reported the results on April 10:

**Motion #1** passed with 18 YES votes and 1 NO vote.

**Motion #2** passed with 13 YES votes and 6 NO votes.

One Member did not return a vote on either Motion..

**Action taken at this (April 13) meeting:**

Extensive discussion via email after April 10 and before tonight’s Zoom meeting had challenged whether the email votes on Motions ##1 and 2 were valid. The Members had a

brief further discussion of that dispute, and JB expressed his view that what had been accomplished via email was a proper, valid, and enforceable act of this Committee. Susan asked whether, nevertheless, there was some way to formalize the actions taken by email. JB expressed his belief that a motion to *ratify* those actions - while in his view unnecessary - would, if approved, resolve any question about the validity and enforceability of the results of the email vote. Tyler then moved to ratify the decisions made by the email votes. Tyler pointed out that it had been 42 days since the Committee had voted on anything. His motion was seconded.

Before the vote on Tyler's motion could be taken, Ann Erdle made a statement and informed everyone that she was resigning from the Committee immediately. She left the Zoom meeting after making her statement. This reduced the voting membership to 19.

The vote on Tyler's motion to ratify then proceeded. The motion passed with 11 Yes votes and 6 No votes (two Members being absent for this vote).

Applying the new quorum percentage of 65% to the total of 19 remaining voting members, 12.35 would be the quorum. But it was agreed that the quorum requirement should be an odd number to preclude tie votes; therefore, a quorum requirement of 13 was agreed upon.

After the ratification vote, Rich asked if someone who voted against ratification could explain why they voted as they did, because he wanted to understand what the issue was and where they saw our Committee going. He expressed his concern that if the goal of some Members was to not complete our basic charge of redrafting the Covenants, we would have a problem. Lane responded that he believed our votes have always seemed lopsided with a quorum of 16, and that lowering the quorum would only increase this problem. He added his view that so far the Committee has not really changed the substance of the proposed Amended and Restated Covenants that failed to pass last year but was only rewording them, and that no compromises had been made. In response JB noted that, actually, the Committee already has made significant changes in its redraft of the Covenants, and that those changes addressed several of the core concerns expressed by those Members who had rejected the Amended and Restated Covenants. Those changes included:

- How the ARC members will be chosen. This Committee already has agreed that, unlike the provision in the Amended and Restated Covenants that had called for the *Board* to *select* ARC members, our draft revised Covenants will call for the entire SROA *membership* to *elect* ARC members at the annual meeting (as has been done in the past).
- Under the Amended and Restated Covenants, there was no provision for removal of an ARC member. Instead, this Committee's draft revised Covenants includes a defined process for removing and replacing an ARC member.
- Neither the current (1979) Covenants nor the proposed Amended and Restated Covenants gave an owner any recourse if the ARC turned down the owner's application for a particular improvement project (although it was again noted that the current ACC had not declined any application in the 40-some applications submitted over the past year). In contrast, the Committee's draft revised Covenants provide, for the first time, that the owner will have a right to appeal an adverse ARC decision to the Board.

Lane acknowledged these changes, but continued to express his concern about the future work of the Committee under the reduced quorum requirements. It was noted that changing

the quorum requirement does not mean that only 13 Members should show up for meetings; our hope and expectation remains that all Members will attend each meeting.

3. **Minutes and Notes Approvals.**

Since a quorum was not established at the March 30 and April 7 meetings, they did not technically constitute official meetings. Therefore the minutes of those meetings will instead be titled “Notes of Unofficial Meeting”. With this adjustment, the proposed Minutes for the March 3 and March 16 meetings, and the proposed Notes for the March 30 and April 7 unofficial meetings, were approved.

4. **Resume Section-by-Section review of proposed modifications to Article 2, using Draft v8, starting with alternative proposals for Section 2.7, then moving on to subsequent Sections (keeping v1 base document text handy for reference). Goal: get at least to Section 2.13.**

**Section 2.7 Architectural Review Committee - Purpose**

Since our last meeting addressing this Section, five Members (Natalie, Lesley, Charlie, Susan, and Tony) had come up with different proposed versions of language for this Section. Jeff proposed, and it was agreed, to vote on them by a process of elimination. Members first voted on each version separately to determine which one(s) received majority approval standing on their own. Two of the five versions (Charlie’s and Susan’s) received separate majority approvals. Then a runoff vote was conducted between those two. The version proposed by Charlie prevailed. Charlie’s version of Section 2.7 as thus approved by the Committee reads as follows:

The Architectural Review Committee (“ARC”) exists to assure, through review of Owners’ overall design and placement of proposed Improvements, as well as conformity of actual construction to the proposed design and placement, that the Subdivision shall continue to uphold the Intent of these Covenants as expressed in Section 1.2.

**Section 2.8 Architectural Review Committee (ARC) - Composition**

JB had been asked to make some relatively minor changes in wording to Section 2.8, which had been approved at our March 3 meeting, to clarify a couple of points. After reviewing a redline of those changes, the revised Section 2.8 was approved unanimously. The final form as approved by the Committee, Section 2.8 reads as follows:

The ARC shall consist of three (3) members, with staggered terms of three years each, with at least one position to be elected by SROA Members each year at the Annual Meeting. Any vacancy of a position on the ARC that occurs between Annual Meetings shall be filled by the Board, choosing among available candidates after issuing a request to all SROA Members for volunteers; provided, however, that: (i) the filled position shall be temporary, lasting only until the next Annual Meeting, when an election for the position shall be held to cover the remainder of its term, and (ii) a Board member may not temporarily fill a vacant position on the ARC unless no other volunteers have been identified. An ARC member may be

removed from office before the end of his or her term by a vote of the SROA Members at an Annual Meeting or a special meeting.

**Section 2.9 Owner's Preliminary Informal Communication with ARC; Owner's Formal Application to ARC; Required Review by ARC; Reimbursement for Expenses**

JB explained that Section 2.9 contains four subsections which each require separate consideration. He noted that subsection 2.9(a) is new but is based on prior discussions of Committee Members regarding the goal that the ARC be available to consult with applicants about anticipated Improvements on their lots before they make formal applications. After discussion, the Committee approved Section 2.9(a) as written:

a. An Owner considering the possibility of constructing any Improvement on the Owner's Lot is strongly encouraged to communicate on an early, preliminary, and informal basis with the ARC for comments or suggestions related to conformity with these Covenants. Any such comments or suggestions do not constitute actionable advice regarding Park County ordinances, regulations, or requirements; the Owner must obtain such advice from the Owner's architect, contractor, or other professional consultant.

We began consideration of subsection (b) when time ran out.

**4. New Business**

There was no new business.

**5. Next Meeting**

The next meeting will be Wednesday, April 27 at 7:00 PM via Zoom.

**6. Adjournment**

The meeting was adjourned at 9:07 PM.