**SVPORC**

**Short Term Rental Committee**

**Meeting Minutes for July 27, 2022**

**Attendees: Absent:**

Leonard Miller Christian Outlaw

Jessica Wildeman Bob Vlade

Enwei Schwind Mike Johnson

Janet Perry

Jan Peacock

Debby Einhorn

Don Sievers

The meeting started at 6:00, and opened with a brief review of the Action Items requested by the SVPORC Board. Discussion proceeded as follows:

**Action Items:**

**1.Review current SVPORC policies and procedures, and recommend revisions to the Board to address the STR issues reported on 07/14/22 by homeowners.**

* This first item received the most attention and discussion. The first proposal was for the elimination of all STR’s by changing the Covenants of all Filings to exclude short term rentals. Everyone acknowledged that this was probably not realistic, but that If anyone was interested in pursuing the Covenant in a single filing they should contact the board for approval. To do so for a single filing would require separate Policy 349 Rental policy, and Policy 330 Architectural Committee Land Use Policy
* The second proposal involved the requirement of Property Owners to be present whenever renters or quests use the Corporation facilities. A suggested change to Policy 020 Bylaws Article II Section 3:

*Associate Members (renters) or any non-members or guests may only use the Corporation areas when accompanied by a current property owner. Renters shall be accompanied by the rental property owner, provided that said owner is current with all dues and fines(if any). Non-members and guests must be accompanied by a resident member in good standing. Note: Currently Owners of long term rentals are allowed to assign their association rights to renter as Associate Member. They are allowed to use the Corporation areas (as long as dues are current), but have no voting rights.*

It was suggested that the Owners of long term rentals be allowed to Assign their Rights for use of Corporation property to a Renter, but the owner would then not be eligible to use the property. It was also pointed out that this would likely cause STR owners to not pay the association dues and not buy fishing passes, resulting in a reduction of revenue.

* The third proposal call for redefining Land Use under Policy Number 330 Architectural Control Committee Rules and Regulations Policy as follows: Land use

 *“LAND USE: ‘Unless otherwise indicated, no lot is to be used for any purpose other than residential unless such non-residential use is approved by the Architectural Control Committee.’ Residential is taken to mean a home that is used for full-time permanent residents by the property owner(s), a second home that is used by the property owner and their guests less than full-time, or a home that is rented or leased on a monthly or greater basis for use as the tenant’s primary residence.*

*Non-residential uses restricted/prohibited by this provision include renting a home, cabin, or other building on a daily, weekly, or monthly basis as a public or private vacation villa.” (This language was taken directly from Highland Lakes rules. They use the same lawyer as SVPORC.)*

This would also eliminate the “Short term Rental” Language in Policy 340

The above language was taken from Highland Lakes rules. The effect of this proposal would be the same as the first proposal, but without the need for 67% approval of each filing. There was discussion and disagreement as to the legality of the method. All agreed that it would require further discussion with our attorney.

* The Fourth proposal was a hybrid. It would combine Proposal #2, requiring STR owners to be present whenever renters use corporate facilities, with a moratorium on new non residential (STR) use approvals. Current STR’s would continue under existing Policy 340 guidelines. There was much discussion about variations on this theme, including grandfathering current STR’s with the understanding that if they (current STR owners) sell their property the buyer would have to agree to no STR. There could also be a cap on the total number of STR’s allowed in Spring Valley.
* The Last Proposal would define “Home Business” in Policy 330 as follows:
	1. *A business operated out of a home office, in the home of a full-time resident of Spring Valley that does not require its customers to drive to the place of business, causing an increase in neighborhood traffic*
	2. *A business that does not require the outdoor storage of inventory other than what can be stored in a residential garage or shed*
	3. *A business that does not require excessive outdoor storage of equipment or vehicles other than what can be stored in a residential garage or in the resident’s driveway, in place of the resident’s personal-use vehicle*
	4. *A business that does not increase noise levels above those typically found in a residential neighborhood*

**2.Prepare a letter to be sent to all homeowner’s advising them of the SVPORC policies and procedures with the intent of stricter enforcement of the policies and procedures, and the financial implication of violations, which include losing their STR approval. Sample Below**

**Spring Valley Property Owners & Recreational Corporation**

Dear Spring Valley Property owner,

During the \_\_\_\_\_\_\_\_\_,2022 monthly meeting, the Board of Directors of the Spring Valley Property Owners & Recreational Corporation (SVPORC), approved changes to Policy Number 320-Declarations, Covenant and Rule Enforcement Policy, and Policy Number 340-Rental Policy. (Copies attached)

Please review the Policies carefully, with special attention to the changes made to violations, penalties, and enforcement. The fines for violations have been increased significantly. Enforcement procedures have been amended to include filing of liens for non-payment of fines and/or **foreclosure\*** through Teller County if necessary.

 While the rules apply to all property owners, Owners who rent their property should note that in addition to the enforcement procedures listed above, Rental Owners will have their Rental Approval revoked for repeated violations.

As a reminder, it is the Owner’s responsibility to make sure that all renters are aware of and abide by the Rules and Regulations of the SVPORC. Renter ignorance is not an excuse, and the Owner must pay the violation penalties!

**Signed:**

**SVPORC Board Chairman**

\*I have been informed (with some laughter) that foreclosure is unrealistic given the relatively small amounts. But Foreclosure sounds much tougher than small claims court.

**3. Recommend the process for policy enforcement**

This is ongoing. Some suggestions for making the process a little easier and accessible are as follows:

*Add to the website a downloadable complaint form that includes necessary information for the Board’s consideration.*

*Outline on the website the procedure to be followed including submission of the complaint form and timelines for action by the Board, information about hearings and appeals by the property owner, and process by which both the complainant and the defending property owner will be notified of the outcome of the hearing(s). Consequences for fine not being paid within required timeframe*

The committee would like to check with attorney about the possibility of cutting down on some of the notification and response times, and maybe the continuation time shown on the fee schedule.

**4. Enforcement**

Committee members expressed concern about the reluctance (justifiable) of residents to confront unruly guests- or other residents. We agreed that we should explore the possibility of hired full or part time security guard(s) not in lieu of fish patrol, but in support of the patrol and residents. This individual word be trained in our regulations and assist the fish patrol and residents in addressing violations and formalizing complaints. We will be investigating costs and revenue needed.

**5. Educating STR Owners to educate their tenants.**

Committee members are working on a document that could be sent to STR owners and included on our website.

**6. Fee Schedule Fines and Infractions.**

We discussed the “three strikes and you’re out policy” and the need to differentiate between ongoing violations (too many people in residence, and single occurrence (noise violations). For an ongoing violation, after initial warning, the initial fine would be imposed plus the daily fine. Are you out after three days?

This needs more work, but all agreed to increase the fines at all levels. It was pointed out the fines and enforcement would apply to all residents-not just STRs.

**7. VRBO Sites**

There was minimal discussion of the sites. More work will be done.

Other items discussed:

* Once changes have been made to Policies- send copies to Realtors and Title Companies
* Numerous Violations reported by fish patrol
* Use of private boats by unauthorized individuals. It was noted that Under Policy #810, V Boating, D. Paddle boats must be anchored down and locked when unattended. All other boats must be anchored and tied down when not in use. It was suggested that if you boat is anchored and tied as required, adding a lock would be a simple solution.
* The STR Committee formally requests that the Architectural Committee Suspend approval of all future STR Rental Requests until such time as The SVPORC Board has considered anticipated Rule, Regulation, Fine and Enforcement Changes currently being considered by this committee.

Legal Questions:

Can we have a moratorium on new STR approvals?

Can we reduce the notification and continuation times on the fine schedule.

Discuss the method used by Highland Lakes to eliminate STR’s. Can we use the same language? What are the risks?

Submitted by

Leonard Miller

Hi Everyone, sorry for the late reply, but I'm just now getting caught up on emails. I'd like to add my input to the discussion that was summarized in the minutes. I want to make sure all our thoughts are represented as they go to the board.

I am fully in support of strengthening the language around rules of STRs and that an STR or any other property in the neighborhood should not operate a commercial (non-residential) business such as a wedding or event venue. That would definitely have a negative impact on the environment of SV. I've seen these in other areas of Divide and they unfortunately, do cause issues. This is NOT the same thing as an STR.

The following is a copy of an email from Christian Outlaw. It was received after the meeting and was therefore not discussed. Christian indicated that he would be attending the August 11 meeting.

From a legal standpoint, I'm not sure it's in our best interest of paying large legal fees to have policy and contract rewrites without doing serious due diligence with contacting STR owners and discussing the issues at hand. I'm also NOT in support of reporting all those violations on that list until we've done our due diligence of contacting those homeowners and verifying the data. For example, the data on my house that was listed was incorrect. We don't know what remodels, repairs, additions, etc people have done on their homes. I'm not sure if you have all seen our SV 2023 proposed budget, but looking over the last few years, we have had serious financial losses. I'm guessing the HOA is not sitting on a large sum of money to pay major legal fees. If the goal is to remove STRs entirely, I think we may have a bigger legal issue given that there are 25(ish) STRs in the neighborhood. I AM NOT in support of making that proposal to the board. That's a lot of individuals that I don't think would go down without a fight, likely an expensive fight for all those involved.

As for proposing the removal of all STRs in the neighborhood, I am definitely not in support of this approach. I may be biased in my response here, but my family has deep (30+ year roots) in SV (my wife was born here, on Lake) and removing STRs from the neighborhood would cause my family to have to leave SV entirely. We chose to buy a house in SV so that we could have a place for our kids to experience the mountains, and one day, live there full time. The only way we can afford to do so is by hosting it as an STR when we aren't using it. I ask that this committee consider that, although **SOME** STRs may have been problem causers, my assumption is that it is a select few and not representative of all STRs. Don't punish those of us that are rule followers and fully paid on our dues and fishing passes, for the mistakes and lack of compliance of others. Someone referenced Highland Lakes, and I'm familiar with that subdivision (I have friends in that community and my father-in-law has built homes in that neighborhood). They have always been a No STR neighborhood, which is not SV.

I'm also 50/50 on the idea of proposing a moratorium due to the fact that if an existing property owner right now in SV wanted to rent out their house, they should be able to based on existing policy and ACC approval. Again, let's not punish someone who is entirely innocent for the mistakes made by others.

As for limiting or removing use of the lakes and community spaces by guests, I fully disagree. Although we use our home as an STR when we aren't there, it is in our right to allow our guests to use the community spaces. If we let our family or friends come stay at our cabin, and they follow the rules (and buy a fish pass), they should fully be able to use the lakes, same as me. That's what my dues are paying for (as are yours). The concern of liability could be easily resolved by having guests sign a liability release waiver (which we do have all our guests sign one. Happy to share it as a template if you all would like). If we remove this right from property owners, I agree, that many may be inclined to stop paying dues and fishing revenue would decrease. I know we would pay less in fishing dues as we would just not use it as much as our guests. Again, if there are specific violations of property owners and their guests, address those specifically. Don't punish rule followers for the mistakes of others.

To sum up my thoughts as I've talked to my neighbors (who have been very supportive of my family and our STR), read the emails from this group, and heard the summary of the last board meeting, residents (and possibly not a large number) have major concerns about STRs primarily rooted in homeowners not receiving communication from the board about complaints and violations. I'm curious to know how many of those STR owners even know or are aware that complaints have been made. I think one of the big misses so far, in this committee, is to truly brainstorm how we could feasibly collect and respond to complaints and concerns from the community about real and actual violations of code. So far, I've not seen anything in our conversations that truly addresses this. I proposed in a previous email that we set up a simple digital/online way for people to submit concerns, and I got NO RESPONSE from this committee about it. It would be very simple to use an online google or cognito form (both are free), linked directly on the SV website. Once someone submits the form, the committee and/or the board would be notified immediately by email. Simple and effective, and most importantly, in writing.

Sorry for the long email, but as I wasn't able to attend the meeting, I wanted to get my thoughts out here. I know some of you may disagree with me, but that's the beauty of a diverse volunteer committee. We need to be able to have discourse and work through it. So let's do the hard work of what we were commissioned by the board to do.

Thanks everyone for the work you have all put in. None of this could be done by any one of us alone. It takes a team. I realize my email may come across harsh, but to share a bit about me, I'm a CPA and an auditor for a living. It's in the nature of my profession to be a challenger. It's not intended to be rude or lack consideration for others. In fact, it's the opposite. I want to make sure all the voices in this conversation are represented fairly and have a place at the table to speak up.

Blessings to you all,

Christian Outlaw

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