



## SLOA Board of Directors Meeting

February 27, 2018 ~ 10:00am, SunLand Gathering Place

### Board Members Present:

- Fred Smith, *President*
- Jac Osborn, *Vice-president*
- Jennifer Sweeney, *Secretary/Treasurer*
- Jerry Ahern
- Missy Church-Smith
- Mike Gawley
- Steve Loska
- Phil Merlin
- Maggie Philbin
- Ricki Bele, SLOA Administrator

### 1. Call to Order

- a. Fred Smith called the meeting to order at 10:00A.M.

### 2. Update from Matt Blankenship, Wildlife Conflict Biologist, WA Department of Fish & Wildlife

- a. Presentation of Deer Survey Results indicated that the majority of SunLand residents have positive feelings about the deer population, are concerned for the health of the herd, and have had some damage to their landscape areas.
  - i. Power Point presentation and detailed report will be posted on the SLOA website
- b. Action Plan
  - i. Form Advisory Committee
  - ii. Review survey data
  - iii. Determine methods to meet goals

### 3. Approval of January 16, 2018 BOD Meeting Minutes

- a. Motion to approve as amended, Maggie Philbin; second, Steve Loska. Unanimous approval.

### 4. President's Report, Recreation Report, Fred Smith

- a. **Submitted Report:** *In early January, Jac Osborn came to me with a report that the houses being built in Sunland North are in violation of the CCR'S due to a height issue and the fact that no architecture forms had been filed. He also stated that he had received information that there was a letter stating basically an agreement had been reached between the SLOA board and Estes Builders. This letter supposedly was written around the late 1900's to early 2001. Jac had approached Kevin Estes, owner of Estes Homes, earlier regarding receiving a copy of the agreement, but one was never produced.*  
*On Jan 19, 2018, I received an email (copy attached) from Mr. Estes regarding a call from Jac on that day again regarding the letter and asking Estes Homes to come into compliance by submitting plans for all their units. As you can see in the email, Mr. Estes indicated he had acquired knowledge that a survey crew had been hired to check the elevations on the houses under construction to insure they were within the 23' height requirement of the CCR'S. I responded to Mr. Estes with a follow up email (copy attached) telling him that I would follow up on all points. Since it was obvious that we would be receiving no copy of any letter from the Board to Mr. Estes very soon, I went back and read the minutes dating from early 1998 through 2003 looking for any reference of the discussion taking place about this issue. The only mention of the project was in the minutes of June, 1999, a request was placed to have Estes clean up the construction site. The next month, July, 1999, a demand for the cleanup was voted on and sent to Estes. In the August 1999 minutes, the issue had been corrected.*  
*That is the extent of any mention of Division 17 in the minutes during that period.*  
*I also started checking out how the height was measured due to a very vague requirement in our CCR'S and Rules and Regs. The CCR'S state in Article IV, Section 7, Paragraph E, that the height of any building cannot exceed 23' measured "from the highest finished grade to the peak of the building". I checked with several city and county codes within 100 miles of Sunland and could not find any that were as open to vague interpretation as ours. Bellingham states that it has to be measured within 5 feet of the foundation. The definition of "highest finished grade" could be interpreted as anywhere on the lot. We would be in a very poor position if we ever had to defend this legally. In addition, there have been numerous iterations of this measurement within Sunland. In the Architectural minutes of May 12, 1980, the measurement was to be measured "from the floor level of the 1st or ground floor." On June 3, 1982 that was changed to read the measurement would be "from the lowest point of contact between the footing and foundation." So, as you can see we have no firm point of measure to use for comparison.*

Jac authorized Olympic Peninsula Surveying and Drafting Inc. to shoot elevation difference on parcels with Division 17 and the report came back that of the 14 homes measured 4 were under 23 ft. and 10 were over the 23-foot limit. Included in the 14 are nine homes older than two years that would fall outside the time limit statute for any legal recourse.

To further confuse the situation, the Sunland Architecture Building requirements are not in compliance with the CCR'S. The requirements state that the mentioned measurement would be from the "finished grade or concrete walkway adjacent to the structure". This is by far the best description of where this point should be measured, we can't use it because the CCR'S and Rules and Regulations take precedence. This is change that we should look at making.

Jac has raised the question on whether or not we penalize Estes Homes for the points raised. He is suggesting that we fine them \$500 for each point of contention. I find this would be a real reach and totally uncalled for. If Estes Homes were just starting this project, it would be one thing to go in and correct the issues now. However, they have been building there for almost 20 years under an understanding (at least on their part) it was not necessary to constantly file the plans. In my mind, if I were on the Board at that time, the time and effort to approve and process the exact same plans over and over would be a waste of time and staff.

The issue of the height of the buildings is another issue. I cannot agree, just using common sense, to make an issue in the difference in height of the buildings. I talked to several other construction people and asked this question "If you start a building from bare ground and follow your plans exactly, can you expect to be at an exact height at the peak of the roof that your plans called for?" To a person, the answer is no. By starting with bare ground, grading and putting in a foundation, start putting the walls and trusses up, putting on the roof and shingles, too many variables come into play to come out exactly at the level. I asked how big a difference would be allowed and it varied from 3 to 4 inches to a foot depending on what might happen. The important thing would be to insure the plans were followed based on current building codes and the project came out as planned. One more point I asked was, If it was different building from scratch as opposed to remodeling. The answer was the variances would be greater from a new project simply because there was nothing before they started to follow and build around. In remodeling, walls, ceilings etc were already in so more exact work could be done.

I think the important thing in making the decision on penalizing on the height issue is "What are industry standards?" We don't need to be spending time and effort on something that really does not mean a lot. There are no view impediments or other issues involved in the height problem except for individual issues that should not be part of the Board discussions. Are the height issues?? Yes. Do they harm anyone or make a difference?? No

The other problem Jac raises is the following of the CCR'S in building the new units. He is correct in the fact that we can find no evidence of Estes following the CCR'S as we interpret them when it comes to filing the plans. Mr. Estes admits to this based on his prior beliefs he had been granted permission way back when.

He is also agreeing to correct the situation and will file all his plans, they currently use four different variations, paying the refundable deposit and agrees to following the CCR's in the future. The question is do we fine him based on the fine schedule for these points?

I am against any fine in this case due to the various questions that we cannot answer. The ones in my mind are:

1. Is there an agreement that we do not have proof of existence one way or the other?
2. Why, after all these years, has this come up now? Are there any ulterior motives we are not aware of?
3. Why would Estes Homes do anything like this to begin with? Is there any benefit to them? They have built a very attractive community that all of us should be proud that it is part of Sunland.
4. The requirement in the CCR'S for measuring the height is too inconsistent in method. We should have caught this last year when we changed the CCR'S.

This has been a long and convoluted document, but I felt it was necessary to get the entire story in your hands prior to the meeting. I am attaching the email chain between Kevin and me plus the agreement that will be under a separate email that I would like you all to vote to ratify, change or discard. If you have any questions, let me know or we can go over them in the meeting.

Fred

#### **FIRST EMAIL FROM ESTES**

-----Original Message----- From: Kevin Estes <Kevin@estesbuilders.com> To: Fred Smith

(FredSmith@sunlandhomeowners.com) <FredSmith@sunlandhomeowners.com> Sent: Fri, Jan 19, 2018 3:42 pm

Subject: Division 17 Construction - Review

Fred,

I just had a phone conversation with Jac Osborne. He has asked me to provide a memo that he and I spoke of a couple of months ago regarding the review of our plans by SLOA.

Back in approximately the fall 1998 and again in approximately 2002 we provided and plans to SLOA. At that time, it was agreed that no further submittals would be required. Clearly as the declarant and developer of division 17 the board did not find it practical nor beneficial to submit the same series of plans over and over again. Jac has asked me to

provide the letter. Unfortunately, our records dating back nearly twenty years are off site in storage and will be very difficult and time consuming to search.

Further we have come to find out that a survey firm has been hired to verify the heights of the homes built in division 17. I find it a bit strange we would find out about this third hand. It is also a bit odd to enter onto other's property without their knowledge or consent to complete the work. Be that as it may, I am confident the buildings comply with the SLOA height restriction of 23' from highest point of roof to highest finish grade per the CC&R's.

According to Jac there have been fourteen homeowner's who have filed complaints. I find it odd that no one has contacted Kevin Estes Homes. We are also unaware of any or what the complaints might include in order for us to respond. We would like a copy of the complaints.

Jac indicated he either wanted the letter or for us to make application for every home we have built in Division 17. I understand the need for Architectural review for single infill homes where no others like it exist.

I am not sure what all of this is going to achieve. That's about 125 or so. Seems extremely onerous and to benefit no one. We have been building in Division 17 for about twenty years. We were the developer, declarant and builder. We build from the same series of plans over and over again. Better than submitting a plan we can actually walk down to an existing home.

It would be great if some common sense was applied to this before it gets out of hand. We are happy to meet reasonable people half way. If SLOA has a renewed interest in Division 17 we will be happy to submit for review any future construction. Conversely we can identify the plan of any new start and show the committee an existing home that is just like it.

Sorry to bother you.

Kind regards,

Kevin Estes

#### **MY FIRST RESPONSE**

From: Fsmith4952 <fsmith4952@aol.com> Sent: Friday, January 19, 2018 5:37 PM To: Kevin Estes Subject: Re: Division 17 Construction - Review

Kevin, it always upsetting when situations like this get started and then expand. To my knowledge the original complaint was from a real estate agent complaining we were not following the CCR'S and letting things slide. I asked Jac to look into the height issue and get back. The 14 number is new to me and I will check where that came from. In my mind, there is no specific complaint concerning the plans. When I had the Architecture committee, I admit that I just assumed that they were all the same and had been approved years earlier. I did not feel it necessary to pursue any action. At this point, from what I am hearing from Jac and your explanation below, the only question is the height issue. As long as it is within the 23' requirement that would be the end of it. I will go back into the minutes from 1998 and 2002 to see if I can find any reference to the approvals. If, by any chance, you remember the specific months, it would save a lot of time. The only interest that the Board would have is what we have for the rest of Sunland. Insuring the values of our homes to protect our investments. Div 17 has been an important part of insuring that value with the structures and environment you have created. However, I insist that the CCR'S are followed. Too many years went by without any guidance and structure from the Board and situations came up that were detrimental to the appearance of homes and the surroundings.. I have attempted to eliminate the casual approach of previous Boards to clean up parts of Sunland and follow the rules that we all agreed to when we moved in. My intention is to resolve this issue asap and will be in touch shortly. Any further information you may be able to provide will be appreciated. Sincerely, Fred Smith

#### **SECOND FROM ESTES**

---Original Message----- From: Kevin Estes <Kevin@estesbuilders.com> To: Fsmith4952 <fsmith4952@aol.com> Sent: Sun, Jan 21, 2018 9:58 am Subject: Re: Division 17 Construction - Review

Fred,

Thank you for your quick and rational response. I am quite confident all of the homes in Division 17 comply with the 23' height restriction as written in the CC&Rs.

After a bit of sleuthing we found out that Olympic Surveying was the surveyor employed by SLOA. We contacted Brian Cays the owner to find out what the heck was going on. His work was not complete when we spoke. Be aware however that the instructions given Olympic Surveying by Jac are not consistent with the language in the CC&R's which state "Maximum height shall be no more than twenty-three (23) feet from the highest finished grade to peak of the building" (emphasis added).

Jac's instruction to Olympic Surveying were to a point on the driveway, none of which are the highest point of the finish grade. When done this way, the incorrectly measured

height difference could very well exceed 23'. Not sure why he would take this approach. Brian also indicated the Jac informed him of 19 complaints. It is unsettling and impossible to deal with anonymous complaints.

Once again sorry to bother you.

Kind regards, Kevin

#### **MY RESPONSE**

From: Fsmith4952 <fsmith4952@aol.com> Sent: Sunday, January 21, 2018 10:20:07 AM

To: Kevin Estes Subject: Re: Division 17 Construction - Review

Not being in the business, what does "highest finished grade to the peak of the building" mean? In any normal lot, there will be finished grades away from the building itself in the landscaping. If I have a water feature built up in my front yard, does that mean the top of it would be the highest point or would it be somewhere around the foundation of the structure? What would the industry standard interpretation be? Fred

**ANSWER TO QUESTION**

Original Message----- From: Kevin Estes To: Fsmith4952 <fsmith4952@aol.com> Sent: Sun, Jan 21, 2018 11:42 am  
Subject: Re: Division 17 Construction - Review

Fred,

Happy Sunday to you.

My experience with CC&R's, the determination of the rule is simply the language contained in the CC&R or what it says in plain English. Peak of building is the highest point of the roof. Finish grade is simply the final grading of the soil on the lot. The way the CC&R's are written, it is the highest point of the roof to the highest point of soil on the lot after grading. It would not be surprising if some would like it to say something else, but it doesn't.

Best, Kevin

**MY RESPONSE AFTER MEETING**

From: Fsmith4952 [mailto:fsmith4952@aol.com] Sent: Friday, January 26, 2018 10:55 AM

To: Kevin Estes <Kevin@estesbuilders.com> Subject: Meeting

Kevin, as we discussed, I will review the agreement we arrived at yesterday. If we both remember and agree to it, I will write it up for our signatures and present it to the Board.. The following points with any detail are:

1. You will research with prior individuals you had dealt with during the early days of the Division 17 development for any information substantiating your belief that you had received permission to build and develop without going thru the required steps stated in the CCR's at that time.
  2. All previous construction that is finished and occupied will be "grandfathered" under the beliefs you had.
  3. Estes Builders will provide all sets of plans being used, currently four, along with a \$500 deposit check per plan for all buildings currently under construction and being planned for the remaining vacant lots. If at any time these plans might change, a new set along with corresponding check will be submitted.
  4. At all times, Estes Builders will follow all CCR'S and Rules and Regulations as set forth in the CCR'S for Sunland.
  5. The heights of the future buildings will be at the 23' maximum height based on an agreed common point in the middle of the driveway in front of each building. Any variances would need to be adjusted accordingly.
  6. The Architecture Committee for SLOA will review each plan and finished building to insure compliance with this agreement. Return of any deposit checks will be depend on final construction and approval of each plan.
- If there is anything that I missed or anything that I added you question, please feel free to make changes and let me know before i proceed.

Thank you for the cooperation on this issue. Fred

**ESTES RESPONSE TO LETTER OF AGREEMENT**

Fred,

1. Yes, I will reach out to Jerry Strawn, former owner/broker of Windermere Real Estate, our original listing agent who accompanied me.

2. Yes

3. We have four lots (six units) that are under construction/ incomplete. They are Lots: 53, 57, 60 and 66. Yes, we will provide plans and \$500 deposit check for each of them. For units not started we have three lots (six units) left. 55, 59 and 67. We will provide the plans and deposit prior to start of construction. Since all four floor plans will be submitted with current and future construction it seems redundant to submit each floorplan.

4. Yes however; The only potential issue regarding complying with all elements of CC&R's is garage width. They are written for a single-family home and state no width greater than 24'. When we have a duplex as with other condos in Sunland the width is per unit for a total of 48'. Ditto with openings 16 and 32.

5. Yes. For any future construction we agree that the height of the structures will not exceed 23' from the highest point on roof to middle of driveway.

6. Yes, as long as we don't get hung up on height to driveway on units under construction.

I am trying to avoid any back and forth regarding height on units under construction. We can guarantee not to exceed the height measured to the driveway on future construction. We might be insignificantly higher on a couple under construction, even though they do comply with the highest grade. I'd prefer to avoid going there.

The only thing not spoken to in your email was Kevin Estes Homes agrees to split the invoice of the survey work approximately of \$1,314 at the resolution of this matter.

Please let me know if I can be of further assistance or if you have questions.

Best, Kevin

**b. Comments:**

- i. **Fred Smith** summarized D17 building height issues for completed properties, and shared discussion points he has had with Kevin Estes, Estes Builders.
  - ii. Discussion among BOD members highlighted possible scenarios
    1. Nominal fines for past infractions of CC&Rs
    2. Concern about other infractions of CC&Rs throughout the greater SunLand community
    3. Need to revise CC&Rs
  - iii. April 1998 D17 Special Meeting minutes indicate possible deference of architectural approval from SLOA to D16 Architectural Committee; perhaps more information might be found by researching D17 minutes
- c. Motion to table decision on addressing height infractions to March 20, 2018 BOD meeting. In the interim, confirm options with SLOA BOD attorney and further research D17 BOD and Architectural Committee minutes for additional history. Motion: Phil Merlin; second, Missy Church-Smith. 6 ayes, 3 nays; motion passed.**

**5. Treasurer's Report, Jennifer Sweeney**

- a. Submitted Report:** The final 2017 financials were published in the most recent bulletin. To recap, we collected 106.2% or \$251,671 of the budgeted income and spent 98.2% or \$225,553 of our budgeted expenses. These expenses can be slightly misleading as some departments went over and some did not. For 2018, I expect these numbers to be much closer based on a small dip in transfer fees (I hope I am wrong and that we continue to see new members into our community) and an increase in overall expenses by nearly 3%.

As of Jan 31, we are 8.3% into our fiscal year. We have spent \$17,020 or 7.2% of our budget. The income is slightly off as it's harder to look at that number mid-month. But as of Feb 16, 2018, we have collected 89.3% or \$212,863 of the expected income. We are still hunting for approx. \$10,000 in annual dues.

We are still collecting delinquent HOA and RV dues. Late penalties are now being assessed. If you did not receive an invoice, it is your responsibility to make sure we have your correct mailing information. We are very forgiving and will not assess late fees if we get notification from our members.

I am currently in the process of creating a Treasurer handbook to give guidance to subsequent Treasurers. I hope to have this completed by May.

- b. Comments:** Suggestion for each BOD member to create a handbook for their position. SLOA has savings in CD at First Federal; interest rate @2.3+%

**6. Office Manager's Report, Ricki Bele**

- a. Submitted Report:** I played catch up for the first couple of days. I appreciate Wallene Eichhorn filling in for me. She did an amazing job.  
I am sending out past due statements to residents that have not paid their annual dues.  
I sent out 2 letters for dog nuisance issues. I sent out one letter for a parking violation.  
Mike Gawley and I met to update my records with the changes he has made in the lot. I appreciate that he has been able to take over the RV lot without any issues.

- b. Comments:** Working with Maggie Philbin to update list of rentals. SLOA office modified hours MWF 9:00-1:00

**7. Committee Reports**

**a. Recreation, Fred Smith**

- i. **Submitted Report:** *I have been working on bids for the pickle ball court and we are at the point of awarding bids if we want to get this done this spring. We have the one bid from Gilles Construction that bids the entire job for a total of \$21,850.00 plus tax. This firm is the one that did the swimming pool and did a great job on that. I have no problem after working with them in awarding the bid to Gilles. I also have a bid for the asphalt job only. This bid is from Lakeside Industries with a total of \$12,950.00. This would entail only the grading and prep work, laying the required gravel base and pouring the asphalt. By accepting this bid, we would have to contract with a fencing company for all the fencing. I am working with two companies now for a bid on that work. If I have the*

information prior to the meeting, it will be included. What I am proposing is a vote to approve going ahead with the project and awarding the bids based on whatever the lesser total will be. I need this approval now to move ahead. In addition to whatever way we go above, there will be an additional charge for finishing the court 30 days after the asphalt is finished. This will be done by Mid Pac Construction. They are the company that finished the older courts two years ago and basically the only one in the northwest doing this type of work. Their bid, which will need to be renewed due to expiring dates, was \$4800. That bid was dated last fall and had a 30 day expiration period.

One final item for approval is separate from the asphalt bid, Lakeside has quoted \$5750 for regrading and graveling the drive and parking area. There are numerous pot holes and needs to be done. This will come out of the reserve funds as was quoted in the original reserve study.

**ii. Motion to accept least expensive bid to complete Pickle Ball Court once fencing bids have been received..**

**Motion: Jerry Ahern; second, Mike Gawley. 5 ayes, 2 nays; 2 abstentions; motion passed.**

1.

**b. RV Storage, Michael Gawley**

**i. Submitted Report:** *We continue to work towards keeping the lot clean and organized. Eviction notices have been sent to several non-compliant spot holders, and those units will be towed if the owners fail to bring their units up to code. Meanwhile, I hope to move a few of the large trailers out of the SW corner and into locations that are easier to access. Finally, I have given permission to an individual to live in his 5th wheel on-site. This will provide a full-time presence on the lot and, if all goes well, I may recommend we discontinue security services for the lot in the near future.*

**ii. Comments:**

1. In process of rearranging space assignments based on size and ease of access
2. Thomas, living on-property in his 5<sup>th</sup> wheel, space 90A, will “keep an eye on the lot.”
  - a. Background check has been completed
  - b. Thomas has own vehicle and liability insurance
  - c. Per IRS, he is not an “employee”

**c. Communication, Missy Church-Smith**

**i. Submitted Report: SLOA Website & Newsletter**

- *Members Only area has been set up. Roster to be added by end of February 2018.*
- *On-line communication tool will be tested with the BOD as recipients. Assuming all goes well, this system will be implemented by February/March 2018.*

**ii. Comments:**

1. Items will pushed back into March, and implemented as soon as possible.

**d. Landscaping, Jerry Ahern**

**i. Submitted Report:** *I am convinced that sometime between now and Memorial Day the sun will return and the temperature will rise to the point that “long johns” will no longer be necessary. As we approach that date our attention will turn to eliminating all traces of winter. Grass will grow again and need to be cut, weeds will show up in the most inconvenient places and need to be pulled, leaves will cover the lawn and some trees and shrubs will probably need pruning. As everyone prepares for Spring, I’d like to remind you to please store your BBQ, trash cans, and any other clutter out of site from passers-by so that all your gardening and landscaping work will be on full display to our neighbors and those who wish they were our neighbors. As a committee we will be monitoring our neighborhoods to ensure that everyone is putting their best foot forward in keeping Sunland the envy of the Northern Peninsula. Thanks to all of you for your past cooperation and we look forward to seeing all of you throughout the Spring and Summer.*

**e. Greenbelts/Parks/Property Management, Steve Loska**

**i. Submitted Report:** no report

**ii. Comments:**

1. In the process of checking greenbelts for storm damage

**f. Security & Roads, Phil Merlin**

**i. Submitted Report:** no report

**g. Rental Coordinator, Maggie Philbin**

i. **Submitted Report:** no report

ii. **Comments:**

1. In process of confirming rentals
2. Concerns about barking dogs
  - a. Fred Smith will draft a letter to owners of rental properties requesting input on how to address and solve issues (e.g. barking dogs) with tenants
    - i. Draft to be sent to BOD members for input
3. Suggestion to clearly define "nuisance" as used in CC&Rs

h. **Architectural, Jac Osborn**

i. **Submitted Report:** *This month we have had 2 new applications. They all have been approved. January was very a slow month. I think it will pick up now that Ricki has returned from her knee surgery. I the new construction in Sunland North 17 is in violation of the height requirements as per the CC&Rs. As I stated last month "stay tuned" well, this month gets even better. This February Board Meeting will determine just how far the Board will go to maintain and enforce the CC&Rs and the R&Rs of SunLand.*

ii. **Comments:**

1. In tenure as Architectural Chair, Jac has addressed 162 applications and felt that he was supported by the BOD. On the issue of D17 height infractions, he no longer feels supported by the BOD, and therefore is resigning as Architectural Chair.
2. Jac Osborn has also reigned from the SLOA BOD as of January 27, 2018.

8. **Old Business - none**

9. **New Business**

a. SLOA Parking Lot: Currently requesting bids to restripe the SLOA building parking lot

10. **Comment Period Visitors**

a. Joel Ogden (note read by Phil Merlin)

- i. Emergency Management Meetings are scheduled for the following dates, to be held in the Sunland Ballroom
  1. Thursday, March 29, 2018, 6:30-8:30: "Cascadia Story"
  2. Thursday, April 5, 2018, 6:30-8:30: "Puerto Rico Earthquake/Cascadia Fault"
  3. Wednesday, April 11, 2018, 6:30-8:30: "Camping in Your House"

b. Randy Woodson

- i. Will dog Park be part of SunLand North? No, dog park no longer in master plan.
- ii. Earthquake insurance? – up to each division.

c. Bob Eldridge

- i. Would like to set up "Little Library Book Exchange" – corner of Hurricane Ridge and San Juan Drive
  1. Fred Smith: check placement and county right-of-way, then bring back to BOD in March.

d. Susan Hamman

- i. Did Estes Builders and SLOA split cost of D17 height survey? Yes.

e. Kenny Niblett

- i. Request to have copy of D17 height survey results. Fred Smith will give him a copy following BOD meeting.

f. Re. D17 house fire aftermath. No involvement from SLOA, as legislation is pending.

**Motion to adjourn, Maggie Philbin; second, Steve Loska. Meeting adjourned @11:55am**

**Minutes Respectfully Submitted by Missy Church-Smith for Ricki Bele**