



THE PARK LARK

Musings from the Association's Board Chair



2022 turned out to be a doozy of a year for the volunteers running the Summit Park Homeowners Association. At times, it seemed to be following some of the script found in that epic spaghetti western movie, *The Good, the Bad and the Ugly*.

2022 started out with the Association proudly announcing that after many months and countless hours spent researching, discussing, and generating multiple preliminary drafts of the Association's CC&Rs and related corporate docs, we were finally able to present drafts to our community for additional input and suggestions. However, what began with the best of intentions – and what could have been the highlight of the year – ended up being the year's lowlight over the ensuing months.

The reasons for the rewrites were for both practical and legal purposes. The existing CC&Rs were, well, a mess. Our community was burdened with 13 different and woefully out-of-date versions of CC&Rs (85% of them over 50 years old). They suffered from a myriad of issues, not the least of which was that certain areas of Summit Park were listed as having a mandatory HOA membership requirement (on paper, at least), but in other areas, it was strictly voluntary. They were confusing to property owners, realtors, title companies, legal professionals, and to those looking to move here. The many issues needed to be corrected.

There is no reason to get into the merits of the ensuing legal action (both real and threatened) brought against the Association that was triggered by generation of the drafts. Ironically, those actions were based on the existing set of HOA docs and had nothing to do with the rewrites! Yet right or wrong, those pursuing it felt justified. While corporate insurance would have covered any legal fees needed to defend the Association and its board, we elected not to tap into it, and instead paid all legal fees using existing "rainy day" funds. **It all worked out in the end, but I'll always wonder why all the hate and misinformation generated by those that were blaming the Association and its current board members on a matter that had unintentionally existed for so many years prior to 2022.**

On a brighter note, **the Association had a lot of successes in 2022.** The annual community cleanup – Dumpster Days – was once again well utilized and a super success. We also totally retooled the community website to make it easier to navigate and view, and our local wildfire mitigation efforts continue to be one of the best around. Ultimately, "the good" upstaged "the bad and the ugly," so overall, I'll give 2022 a big thumbs up. **And a big THANK YOU to all those that support their HOA!**

Document Restatements

- **As previously announced a few months back, the Association approved restatements to its Articles of Incorporation and its corporate bylaws.** Those documents, along with a legal release submitted and recorded on August 8, 2022 by the Summit County Recorder's Office, addresses the concerns by some property owners who alleged that unlawful liens were placed against their properties by the Association. With no way to determine whether only one or multiple properties may have been impacted, the Board elected to simply have a blanket release written that addressed all lots located within Summit Park. The legal release, along with the restated Articles of Incorporation and the corporate bylaws, were written and thoroughly reviewed for legal soundness by Robert Rosing of the local law firm of Rosing Davidson Frost. The release, along with the Articles and bylaws, can be accessed at <https://SummitParkUtah.net>.
- **The Association's CC&Rs have been eliminated.** In their place, the *Community Code of Conduct* was written for those looking to be provided some degree of guidance and best practice to property owners in Summit Park. Adherence to any of the provisions found in them (as were the previously enacted CC&Rs), are strictly voluntary and are non-enforceable. A PDF can be accessed at <https://SummitParkUtah.net>.



So What's New with the Summit Park Homeowners Association?



The Summit Park Homeowners Association underwent some organic change in 2022 – or stated more accurately, it *formalized* some changes that were long overdue in terms of what our community expects from the organization and what we are capable of accomplishing and accommodating over the course of a year. Similar to other aspects of the Association, changes had to be made if we were to continue as an organization that is dedicated to the betterment of all those that own and live in Summit Park.

- **The Association Remains a Homeowners Association.** Since CC&Rs are no longer a part of the Association's DNA, the board gave a lot of consideration on whether to remain as a homeowners-designated corporation or simple to operate as a non-profit corporation where membership in it provides access to all the programs and services that the Association offers, but without the "burden" of having to abide by all regulations mandated to homeowners associations. In the end, it was decided to remain under the corporate designation of a homeowners association. The primary reasons are 1) it allows for easier access to government grant money that only homeowners association can access, and 2) by fact that government agencies are more accustomed to dealing with homeowners associations when addressing issues of interest to an entire neighborhood.
- **Primary Purposes.** With limited funding and bandwidth, the Association will now almost exclusively concentrate its efforts in the following three areas:
 - ◊ Financially support and organize **Dumpster Days** to assist members with the removal of trash and refuse from their properties and the community.
 - ◊ **Assist with fire mitigation activities** through local financial assistance programs and by obtaining government grants (which have totaled \$100s of thousands of dollars over the years) that is wisely used within our community to help fortify Summit Park against the threat of wildfire.
 - ◊ Act as a **unifying and powerful voice with government officials** in addressing concerns and issues that are important to those that own, live, and recreate in Summit Park.
- **Voluntary Membership for All.** Membership in the Association is now **100% voluntary** for all those that own property in Summit Park. No longer will there be any mandatory Association membership areas in Summit Park.
- **Membership Remains at \$50.00/Year.** If you wish to support the efforts of the Association, membership will continue to be \$50.00/year. That \$50.00 allows members to all rights and access to all programs and services that members are entitled to by the Association. **For those who prefer not to contribute and support the Association and what it does on behalf of all those that live and own in Summit Park, they will be under no obligations to the Association, and likewise, the Association will have no obligation to them.**
- **Removal of Architectural Committee.** The Association's long-standing Architectural Committee has been 86'ed (done away with). In actuality, the Architectural Committee's usefulness has been steadily declining, and potential liability issues now outweigh having such a committee. Association approvals or reviews are thus no longer needed by property owners for any new or contemplated architectural changes or improvements.
- **Monthly Public Meetings of the Association.** The Association has not held any public meetings since the beginning of the pandemic. Board meetings have nevertheless continued to be regularly held by remote means. The primary reason for not having public meetings during this time is that the Association lost access to any local venue to hold meetings. From time to time, the plan is to hold meetings at the County library, but there is a cost associated with that. However, just because we no longer regularly hold face-to-face meetings with our members does not mean that communication channels do not remain open! Please continue to email the Association at SummitParkUtah@gmail.com with any questions or comments you may have. The Board does listen to everything that it receives and does its best to respond to all emails in a timely fashion.



Summit Park – a Firewise Community

Summit Park was recertified in 2022 under the prestigious National Firewise USA® program by the National Fire Protection Association. Summit Park is one of only a handful of Firewise-certified communities in all of Summit County. Firewise communities must annually demonstrate that they have taken meaningful actions to reduce the threat of wildfires.



A resident of Summit Park for over 20 years, a huge thank you to **Mike Quinones** for his continued efforts - now spanning well over a decade - in helping our community fortify against the threat of wildfires and assisting landowners with their individual fire mitigation efforts! Mike has not only applied his expertise and wide-ranging experience in obtaining the Firewise certification for our community, but he has been instrumental in procuring hundreds of thousands of dollars in government grant money that has made Summit Park more resistant to wildfires that could adversely impact our community. His efforts are often under the radar and may not be evident to the untrained eye, but his "Firewise fingerprints" are evident throughout Summit Park. All of us that live and own in Summit Park should be very grateful for the time and efforts that he puts into our community. If you have questions for Mike, including advice on how to harden your own property against fire, he can be contacted at SummitParkFirewise@gmail.com.

<https://SummitParkUtah.net>

Please check out our newly redesigned and retooled community website! It went live this past November after several months of different designs being considered, which were all geared towards making it easier to navigate and getting to where you need to go faster.



Nina Pacchia, the Association's web master, looks after our website content and monitors email flow and responses. The redesigned website that she developed is now laid out using just five menu choices:

- **News and Community.** Provides all types of community information, along with recent news and posts relevant to our community.
- **Membership.** Provides information on becoming or continuing membership in the Association, including detailed instructions on payment options. Looking for your lot's plat number? That information can also be accessed in this section.
- **Financials.** Provides easy access to the Association's board minutes and financial information. These documents are typically posted 30 to 60 days following a meeting of the board.
- **Governance.** The Association's Articles of Incorporation and bylaws, along with the Neighborhood Code of Conduct, are accessed in this section.
- **Contact.** As the title so indicates, the Association's contact information are listed in this section.

Treasurer's Report



Jackie Silva, a career accountant, volunteers her financial expertise as the Association's treasurer. In addition to performing her financial responsibilities to the Association, Jackie also handles the snail mail, government licensing and reporting requirements, and the corporate insurance.

As of December 2022, the Association's balance sheet stands at \$19,401 in the corporate checking account and \$12,407 in its corporate savings account, for a total of \$31,809. The Association took in \$23,145 in 2022, down approximately 18% from the 2021 year-end level of \$38,800. Nearly half of all income is attributable to membership fees (\$12,153). 2022 expenses that the Association incurred totaled \$29,949, up from \$16,767 in 2021, a 44% increase between years. Primary expenses for the year was 1) the cost incurred for Dumpster Days (\$8,201); 2) fire reduction measures (\$6,360); 3) Association-related operational expenses consisting of postal box rental, land lease for the Summit Park entry sign; business licensing and listing fees, taxes, accounting, and insurance (\$3,384); 4) postage, printing, and mailings for last year's Park Lark (\$2,432); 5) community website consulting and upkeep (\$1,243), and 6) legal-related expenses (\$7,331). Detailed Treasurer's reports are regularly posted on the community website at <https://SummitParkUtah.net>.



What Exactly Are Those Corporate “Governing Documents” All About?



We know what you’re thinking – BORING! We really can’t argue that any mention of a corporation’s governing documents is about as dry a subject as there is. I’m reminded of the old joke: *“History is such a boring subject... You never learn something new.”* Boring as they may be, we thought it would be a good idea to write about them, as they are often misunderstood and can be confusing as to what they are and what they represent.

Legally, if a company or corporation is registered with the state, then the businesses needs to have in place a set of governing documents. Some of the required documents remain strictly internal to the corporation, whereas others are required to be filed with the appropriate state agency. The Association is no different since it legally operates and is registered as a Utah non-profit corporation, and therefore, must conduct its business in accordance with all applicable laws and regulations that govern both corporations *and* homeowners associations. Below is a listing of a homeowners association’s typical governing docs and what they represent:

Articles of Incorporation. A corporation’s Articles of Incorporation refers to the highest governing document of a corporation. The Articles are filed with the state. Until they were revised in 2022, the Association’s Articles of Incorporation had not changed in content since they were originally written in 1957. In addition to required declarations found in the Articles (such as the official name of the corporation), the Association’s restated Articles specifically documents its purpose and why it was formed, among other declarations.

Corporate Bylaws. Corporate bylaws describe the binding rules of the corporation, including the powers and responsibilities of leadership (board members and officers), details on membership requirements, the cost of membership, meetings and voting requirements, and how the business is run and reported. In the past, the Association’s bylaws were commingled with something called the *Corporate Constitution*. Corporate constitutions long ago went the way of dinosaurs (or something like that), and corporate constitutions are rarely seen anymore, if ever. The Association no longer employs a corporate constitution as part of its governing documents.

Covenants, Conditions and Restrictions (CC&Rs). So it’s absolutely crystal clear, **the Association does NOT have in place any CC&Rs as part of its governance structure and documentation.** They are mentioned here only because most homeowners associations have them, but they are not legally required as part of an HOA. CC&Rs are often confused with an HOA’s bylaws, but they are very different documents. *Bylaws* are all about how the corporation is run and operated, whereas *CC&Rs* are all about what is allowed and not allowed by an HOA within a community. Why did the Association do away with its CC&Rs? One reason is that they were never enforced anyway, as the Association saw little reason to do that, and instead believed it was best to leave it up to neighbors to work out issues they may have with others. Nor did we ever want to enforce them due to the makeup of our community and the possibility of litigation if someone felt they were wronged. More importantly, if membership in the HOA is voluntary, you really can’t enforce something where membership is voluntary! We recognize that there are some that would prefer having CC&Rs in place and are enforced by the HOA to help protect property values. Perhaps having CC&Rs in-place is something that will be considered in years to come by a new and decidedly different Association, but there are no plans to even consider something like that now.

The Neighborhood Code of Conduct. The Neighborhood Code of Conduct is **NOT part of the Association’s governing documents and they – just like CC&Rs (if they were in place) – are non-enforceable.** They are provided to the community for those that prefer to have a document that provides some degree of general guidance and best practice for those that live and own in Summit Park. They are called the *Neighborhood Code of Conduct* for no other reason than it sounded about right, and if you can suggest an alternative name, the Association is certainly open to calling them by some other name.