

Synopsis: 1st addendum

I would like to update the synopsis previously posted on this website based on my knowledge as a long time AC resident and information obtained from the ArrowCreek 411 website, the Associa website, and from local newspaper and TV reports. The synopsis and this update are an attempt to sort through and organize information for myself to the best of my ability. I hope, that sharing this information might be helpful to others who are trying to get their arms around this. Constructive corrections or additions are more than welcome.

The Process

Joint Venture Process:

Our community is represented by the HOA board. After the elections in December 2014, it became public knowledge that the five board members that were elected were supported by the FOA. The FOA are a group of about 36 investors that bought the ArrowCreek Golf Club at a bankruptcy hearing in the fall of 2014. The ArrowCreek Community Club Committee (ACCC) is a committee established by the HOA Board to analyze the options regarding the purchase of the golf club. The HOA board also established a communications committee to relay vetted information from the HOA board to the residents and provide board approved answers to HOA member questions (for example: FAQ's). We also now know the names of a few of the litigants that involved the Golf Club and the developer Terrabrook in multiple lawsuits from about 2006 to 2008, contributing to the decision by Club Corps to not buy the Golf Course in 2008. (Key managers of Club Corp now are with the Arnold Palmer Management Group). Below is a list of members of each of the aforementioned groups. Names of those that have multiple roles in our community are highlighted. Pertinent information is added as available regarding those key players in our community.

HOA BOARD:

President: **Sam Fox**: FOA supported

Vice President: **Robin Rakusin**: lives on golf course, 6th hole, verbally attacked James Keller, Board candidate (not FOA supporter) during "Meet the Candidates" meeting

Secretary: **Charles Dickinson**, FOA supported

Treasurer: Alan Liebman, FOA supported, lives on golf course 7th hole (in his letter to Arrowcreek friends and neighbors on 11/14/14 he said: I "*do not live right next to a course*", and on his candidate application he denied any conflict of interest)

Director: Steven Elliott, FOA supported

Director: John Krisch,

Director: Joyce Seelen: FOA supported, Golf Club member, lives on 8th hole: admitted to potential conflict of interest on her candidate application form

ACCC:

Rich Kenney: Chairman, spokesperson for the committee / presenter at HOA meetings, served HOA: on the Board, Board president, Board Treasurer, Design Review Committee, Budget Committee, presented HOA on the Unsecured Creditors Committee in the bankruptcy proceedings

Charles Dickinson: ACHOA Board Liaison, HOA board member, FOA supported

Sam Fox: HOA President, FOA supported
Robin Rakusin: HOA Vice President
Norm Reeder: ACCC member, Golf Club member, former Golf Club Member Advisory Board President
Gary Smith: former Golf Club member, former HOA board member/president,

Communications Committee: (**incomplete** list, obtained at the Nov 17th HOA meeting)

Paul Burkett: former golf club member, former president of HOA, temporary HOA board member in 2014, Chair of HOA Budget Committee

Norm Reeder: ACCC member, Golf Club member, former Golf Club Member Advisory Board President

Hal Albright: FOA member, Golf Club member

Added volunteer members on 11/1714: James Keller: HOA Board candidate, not a Golf Club Member; John McGhee: former co-chair of The Group of Volunteers (GOV) pursuing transparency and open communication during the 2008 Club Corp negotiations, not a Golf Club Member

[Webmaster Note (2/14/15): Added Susan Duncan, not a Golf Club member, in 12/14 after she created ArrowCreek411 website. Elizabeth Heaven, Golf Club member, was asked to join in 1/15 after her published letter on ArrowCreek411

FOA: (**incomplete** list)

Registered Agent: Rew R. Goodenow

Manager – **Tom Gurnee:** member of ACCC until December 2014, Golf Club Member

Manager – Alan E Humphrey

Manager – **Gary Pestello,** FOA spokesperson, member of ACCC until December 2014, Golf Club member

Manager – Joseph Petite, Golf Club Member

Manager – Mark Wimbush, Golf Club Member

Joseph Morabito: Golf Club Social Member

Hal Albright: communications committee member, Golf Club member

Former Litigants: (**incomplete** list)

Gary Pestello: FOA, Golf Club member, member of ACCC until December 2014

Paul Burkett: former golf club member, former president of HOA, temporary HOA board member in 2014, Chair of HOA Budget Committee, communications committee member

Tom Motherway: FOA investor, former HOA board member

Other litigants: Bob SKACH, Richard HARRIS, Alan E. HUMPHREY, Rick MEYER, Gary GAUMER, Manny MARTINEZ, Christie CORT, Don PARSONS, Mark TOOMEY, Paul JASZEWSKI

The above lists show that several HOA board members are/were ACCC members at the same time. Other ACCC members have strong connections to the Golf Course. The communications committee also has other members who are either members of or are in support of the Golf Club. Litigants are/were in the ACCC, in the communications committee, on the HOA board, and are FOA members.

Question:

How can the work product from the HOA board, the ACCC, and the communications committee be unbiased? The concern would be if these individuals can be trusted to serve the community or will they serve their own interest. If anyone has more information regarding FOA members, board or committee members, please share with all of us.

Permissibility of FOA 12% Interest Earnings per the Articles of Incorporation:

A concern regarding the FOA and their business proposal is the 12% interest the ACHOA would have to pay on all expenses incurred by the FOA. Paraphrased, our Articles of Incorporation do not permit any activity that would result in the direct financial benefit of any ACHOA member.

In the recently posted correction of previous statements, it appears that the HOA Board defines the FOA, LLC as a separate entity from the ACHOA Corporation, and thus *“there is no direct profit to members of the ACHOA Corporation (ACHOA homeowners)”*. They are seeking advice from a tax expert to clarify if profits from the Joint Venture will affect the non-profit status of our HOA. This issue is on the agenda for the HOA meeting on 2/24/15.

The Vote:

Currently, the HOA board is proposing a simple majority vote on the JV based on an encompassing question that includes the purchase, operation and amendments to all governing documents. In January, an AC resident sent a notice of violation of voting procedures to the HOA board. In addition to the permissibility of the 12% interest earnings by the FOA, two other key concerns are: a) whether the conversion of our HOA from a non-profit to a for-profit corporation violates the Articles of Incorporation, and b) whether the vote based on a 50 % + 1 vote majority as currently proposed by the board violates the Articles of Incorporation that require a two thirds majority. In the recently posted correction to previous statements, the HOA board states that it is unclear whether the Articles of Incorporation have to be amended. The issue is on the agenda for the next HOA meeting on 2/24/15.

Liability

The HOA posted the following in January 2015 regarding potential law suits and HOA residents' liability:

“If judgments exceed the procured limits of coverage, the NRS requires that the ACHOA Board of Directors assess the membership for the shortfall. At this point in time, all ACHOA member Homeowner policies with their HOA assessment coverage will be triggered and the ACHOA member will be reimbursed to the limits of insurance purchased in their homeowner’s policy. Many ACHOA members are procuring \$25,000 to \$50,000 limits to cover this contingency for both catastrophic property and casualty losses in their home owner’s insurance policy.”

Question:

Have you purchased an umbrella rider on your home owner’s insurance policy?

Financial Risk

Zoning and Home values:

The HOA board posted the following in the FAQ's regarding rezoning of the Golf Course land:

"There are a myriad of encumbrances on the golf course property with respect to legal and administrative open space requirements established by multiple local and federal agencies as well as archaeological restrictions. Consequently, it can be assumed that the application process to rezone this property would be long and arduous. Whether or not such an application would be approved cannot be speculated."

The HOA board subsequently posted the following on the Arrowcreek 411 website regarding rezoning of the Golf Course land on 1/29/2015:

"If 'The Club At ArrowCreek' failed to thrive, a land speculator might buy the golf course from the FOA investors in the expectation that the developer would be allowed to build hundreds of additional homes in and around our existing homes."

Question:

With the above HOA statements, the question remains if we have to fear rezoning if the JV is not approved by the residents.

Costs:

About \$30K have been spent for the Joint Venture. \$60K have been budgeted for the Joint Venture. The costs incurred for legal counsel to date, and the tax lawyer are not known. The HOA Board also commissioned two studies: the property valuation study, and the demographic survey. Cost unknown.

Private and Public Options failed in the History of the AC Golf Course.

At the beginning of the ArrowCreek development, there was a phase when all ArrowCreek residents were social members of the Golf Club. Then the developer Terrabrook started the concept of equity membership, rescinding the social membership of the HOA residents. Over time, promotional membership fees had to be increased, resulting in a substantial loss of Golf Club members. In 2006, in an attempt to increase membership, the Legends course was made a public course, while the Challenge course remained private. The golfing industry peaked around 2006. Around that timeframe, the AC Golf Course *"had 450 members and operated at a \$1.5M annual deficit"* (in RGJ: as per lawyer for the litigants, Mr. Gunderson). In 2008, when the developer Terrabrook sold the Golf Club to Charlie Leider, there were about 400 members. During Charlie Leider's ownership, more attempts were made to raise private as well as public membership. In 2014, Charlie Leider had to declare bankruptcy. The Golf Club has never been profitable. Therefore, in the history of the AC Golf Club, both private and public membership concepts have failed.

Recently, the FOA and Arnold Palmer management have decided to make both of the AC 18-hole Championship Golf Courses private courses once again. According to the Reno Gazette Journal: *"Arnold Palmer says it has a goal of enrolling about 400 new members by July. They admit it's a lofty goal, but say they are well on their way to*

reaching it.” The last available membership number is about 130 members, meaning that in a few months membership would have to be more than tripled (and as mentioned above: with 450 members, the annual deficit was \$1.5M). The timeframe for promotional “recallable” membership rates of \$250 for nonresidents is not specified on the golf club’s website, and \$230 for AC residents is guaranteed for only 1 year. Social membership is \$95/month. The vote on the purchase of the golf club and the Joint Venture proposal is now delayed. According to the latest HOA Newsletter no date has been set.

Questions:

Will newly recruited members remain members in the future when promotional membership fees will have to be raised to sustainable levels? Will we have a true picture of the potential for success or possible failure of the Joint Venture by the time we will be asked to vote? Can a 36-hole golf course be successful without continued subsidies from the HOA residents when there is so much surplus of golf courses in the Reno area and with the golfing industry remaining in a recession? In 2013 about 157 golf courses closed, while there were only 14 openings (*National Golf Foundation*)

Special Assessments:

To just cover the purchase price and the water bill debt the HOA board published the following in January 2015 describing a potential special assessment of about \$2500: *“The ACHOA Board and ACCC have been reviewing the Nevada Revised Statutes and the ArrowCreek Declarations of Covenants, Conditions and Restrictions, Section III – Assessments – Section 5 Special Assessments with Board legal counsel. The question being pursued is whether a “Special Assessment” approved by the ACHOA members for the acquisition of “The Club at ArrowCreek” would be allowed. If we estimate that the purchase price is between \$1,600,000 to \$2,000,000, that would require a one-time assessment per lot owner of \$1,473.30 to \$1,841.62. [1,086 ACHOA lot owners] However, there is still the need to fund the past due water bill of almost \$900,000 and that would increase the special assessment by \$828.73. With these types of numbers, there may be a need for some type of a payment plan and a need for short term capital to make such a purchase.”*

Question:

We know that the golf course and the club house are in need of substantial capital investments. The proposed increase in HOA monthly fees by \$99 roughly covers the yearly operational deficit based on information from past years. The question is how will these capital investments be financed?

ONCE THE VOTE TO APPROVE IS IN THE PAST, THE BOARD HAS NO REQUIREMENT TO ASK THE MEMBERS (US) IF WE AGREE TO INCREASED MONTHLY HOA ASSESSMENTS OR SPECIAL ASSESSMENTS TO PAY FOR CAPITAL CALLS FOR THE GOLF COURSE OR COMMUNITY CLUB.