WR Special Meetings to discuss Homeowner comments
January 24, 2018
January 28, 2018

Purpose: The WR Board of Directors and the Covenants Revision Committee were present to discuss the Homeowner review comments regarding the Draft Proposed Covenants Revision dated November 14, 2017 (Revision 2). Comments were due January 10, 2018.

January 24. 2018
Attendees:
Board Members: Jim Keefe, Hal Goldback, Sharla Davis, Wayne Gardner
Committee Members: Barbara Doremus, Sandy Maurer, (Sharla Davis)
Homeowners: Peter Popp, Jack Windeler, Chris Steenbergen, Patrick James
Meeting Time: called to order at 3:35p.m.; adjournment at 5:35p.m.

January 28, 2018
Attendees:
Board Members: Jim Keefe, Hal Goldback, Sharla Davis, Wayne Gardner
Committee Members: Barbara Doremus, Sandy Maurer, (Sharla Davis)
Homeowners: Jack Windeler, Kathleen McCormick
Meeting Time: called to order at 2:30p.m.; adjournment at 3:20p.m.

Discussion:
The following Homeowner review comments were discussed. The Board decision is noted. Approved changes will be incorporated into the Proposed Pre-Final Covenant Revision.

1. Section 2.5 Water Augmentation Plan Requirements, para C.
Paragraph is somewhat confusing. It deletes the requirement for an exterior well meter, but in the next sentence, it specifies the Association or its agent be allowed to enter the Owner's lot to read and inspect the meter. If there is no exterior meter, what meter is the Association or its agents going to read?

Recommendation: Either delete the sentence regarding reading and inspection of the meter or clarify its wording.
1/24/18 Board - To clarify paragraph C, the last sentence will be changed as follows... "shall allow the Association or its agents to ~~enter the Owner's Lot and~~ read and inspect the meter."
ACTION: Item closed. Change wording as described.

2. Section 4.7 Barns and Livestock Housing.
It appears after the edits, this sentence reads, "No barn, shelter, corral, paddock, pen or fenced enclosure for (?) shall be permitted." Is there something missing where the question mark (?) is ... i.e., enclosure for what?

Recommendation: Complete the thought in the sentence.
1/24/18 Board - the Rev. 2 comparison document erroneously shows "~~Livestock~~"; however, the main Rev. 2 document shows it correctly as "Livestock". No changes are required to Revision 2.

ACTION: Items closed. Change Rev. 2 comparison document to show "Livestock".

3. Section 4.25 Sewage.

Approximately the 4th sentence states, "Location of the septic system must be in accordance with standard engineering practices and must be located and designed by a professional engineer." This paragraph seems to apply to a new home being built (2nd sentence). Nonetheless, assuming the same is intended for existing homes and the "replacement of a failed leach field", the 4th sentence uses the phrase "designed by a professional engineer". Current El Paso County law allows for one of two types of septic systems: engineered systems or non-engineered systems (conventional septic system). The type of septic system depends on the soil testing. The wording of this paragraph seems to state that an engineered septic system is required regardless of the soil tests/analysis.

Recommendation: Clarify if this paragraph also applies to existing septic systems that may need replacement after a leach field failure. Clarify if the paragraph allows for a conventional septic system (non-engineered system).

1/24/18 Board - the Design Review Committee agrees with this comment. The DRC provided an update to address these issues. (see below) The Board approved the changes.

Each Lot Owner is responsible for design, approval, construction and maintenance of individual septic systems, either a new or a replacement system. ~~Prior to soil testing and preliminary design of the home, a~~ A site plan locating the home, water well, proposed septic tank/filter field, property lines, County utility setback lines, Wissler Ranch setback lines should be submitted to the DRC for review. The location of each previously referenced element should also be located on the ground for inspection by the DRC. , ~~a proposed site should be identified on the ground and approved by the Design Review Committee. Location~~ Design of septic system must be in accordance with El Paso County standard engineering practices and must be ~~located and~~ designed by a professional engineer. The ~~location~~ preliminary plan, locating ~~of~~ the living unit, the well and the septic shall be prepared ~~simultaneously~~ by a professional draftsman or architect, ~~the professional engineer,~~ and submitted to the Design Review Committee for approval prior to construction. A copy of the ~~engineered~~ septic system design should be submitted with preliminary plans. Some Lots may require ~~evapo-transportion~~ evapotranspiration or other septic systems which ~~may~~ require additional care be taken with placement of the system, and additional site work, to included restoration of the original site if system needs to be relocated. ~~be more expensive than leaching systems.~~

ACTION: Item closed. Change wording as described

4. Section 7.3 Budget Annual Assessments, para. C.
What is the purpose of leaving in the wording, "quarterly or more frequent basis." Under what circumstances would the Board (presumably unilaterally) direct a more frequent basis other than an annual basis. Section 7.8 modifies its paragraph to state, "Annual assessments shall be payable annually unless the Board directs otherwise." In the 1st reference, "quarterly ... basis" is left intact; in the 2nd reference, "quarterly basis" is deleted. In either instance, why would the Board conceive of a circumstance for a more frequent billing basis other than annually for an annual assessment?

Recommendation: Delete the reference to quarterly basis in both references. If a more frequent basis other than annual is left intact, then clarify what circumstances would prompt a more frequent billing.

1/24/18 Board - to clarify this wording, the following will be changed from Rev. 2:
- Section 7.3 paragraph C- delete "on an annual, quarterly or more frequent basis."
- Section 7.8 - first sentence shall be "~~Annual~~ Assessments shall be payable annually unless the Board directs otherwise".
ACTION: Item closed. Change wording as described

5. Section 7.4 Special Assessments for Capital Improvements, para C.
What is the rationale for deleting the 67% in the last sentence regarding the release of the Restricted Reserve funds. There was no reason identified in the 3rd column as was done with other proposed changes. If it takes 67% majority vote for a Special Assessment of Capital funds, why does it only require a majority (simple majority?) to release the Restricted Reserve funds for a different purpose? Why wouldn't it take the same 67% majority vote to re-vector the Restricted Reserve funds to a different purpose as it took a 67% majority vote for the original purpose?

Recommendation: Provide rationale for deleting the 67% majority or retain the 67% majority in the paragraph.

1/24/18 Board -the Board agrees to change the wording back to 67%. Section 7.4 paragraph C, the last sentence will be changed as follows..."shall require the affirmative vote of 67% ~~the Majority~~ of the association members."
ACTION: Item closed. Change wording as described

6. Section 7.10 Duties of the Board of Directors, last paragraph, and
Section 7.13 Notice to Mortgagee.
What is the definition of "reasonable fee" and who decides what is reasonable? As written, this is an open-ended condition. Is $500 reasonable? Is $1,000 reasonable?

Recommendation: Provide language that does not leave "reasonable fee" an unbounded, open-ended condition ... i.e., what due diligence will the HOA pursue to establish a "reasonableness" basis?

1/24/18 Board - after, some discussions, it was agreed in both sections 7.10 and 7.13, the wording shall remain as proposed in Rev. 2.
ACTION: item closed. No changes to Rev. 2.

7. Section 8.6 Amendment.

First Mortgagees should have nothing to do with amending our covenants. Getting their approval is a significant cost which is not required by any law. When our developer sold the last lot all that mortgagee stuff ended. Getting 67% of the homeowners to agree on a change is hard enough. Putting this requirement in is a disservice to our homeowners. I am actually surprised our lawyer did not recommend this be taken out.

The background on the issue is that developers were using covenants they wrote to manipulate mortgage companies to give them more favorable loans. Because covenants run with the land, the developers were using them in an attempt to change lending rules. The head of the Veterans Administration protested in the late 80's or early 90's. All developer written Colorado covenants written in the mid 1990's have some mention of the requirement. Kings Deer got it right with their wording that "covenant changes had to be approved by the mortgagees until the developer sold the last lot". It has nothing to do with resident owned homeowner associations.

I do not have access to the legal software that allows one to find all applicable laws and regulations applying to a topic, but I am sure our lawyer does. Unless someone can cite a current law, or regulation requiring it, our HOA has no business even addressing the issue. Making our HOH notify Mortgage holders of covenant changes is a senseless requirement. Our developer had a requirement to notify the mortgagees if they changed their covenants. We do not.

1/24/18 Board - The issue is whether the first mortgagees should be removed from the amendment approval requirement. The phrase in question is "and sixty-seven (67%) of the First Mortgagees of the Lots (based upon one vote for each mortgagee)". After much discussion, the Board voted 2 to 2. It was decided to address again at the previously scheduled Jan. 28, 2018 Special Meeting.

1/28/18 Board - The attendees discussed Section 8.6. As noted, only four Board members are present at this meeting. A motion to remove the First Mortgagees approval requirement was made; however, there was no second. Therefore, the original Board vote on Revision 1 on October 28, 2017 remains (keep the First Mortgagees requirement, as shown in the original Covenants document dated May 19, 1996). Section 8.6 wording shall remain as proposed in Revision 2. For reference, all five Board members were present at the October 28, 2017 Special Board meeting.

ACTION: item closed. No changes to Rev. 2.