

Elk Springs Homeowners Association, Inc.
Member Update
November 13, 2017
Recker Room, Spring Valley Campus of Colorado Mountain College

Following the adjournment of the Elk Springs HOA Member Meeting held on November 13, 2017, Evelyn Cole, President of the Elk Springs HOA presented an annual update and Amanda Maurer, General Counsel to the Elk Springs HOA presented Owner Education as to the general operations of the HOA and rights and responsibilities of Owners, the HOA and its Board. Their remarks are included in this Member Update.

Annual Update –

Ms. Cole introduced all of the members of the Board of Directors as well as the members of the ARC, Rules Committee and Water Facilities Management Committee thanking each for their service to the HOA.

Almost one year ago today your current Board assumed their responsibilities and in all matters we have sought to have transparency and focus our efforts on enhancing the attractiveness of our community and cultivating our Members and new Members.

Several matters dominated our year –

- Governance matters
- Enhanced communications to you
- Organization and CCIOA compliance
- Property Management issues

I will start with our governance matters.

In October last year, the prior Board signed the Transition Agreement with Elk Springs LLC (our developer) that outlined the terms for the transition of our HOA from developer-controlled to member control. This agreement paved the way for Elk Springs to become compliant with the provisions of CCIOA – the Colorado Common Interest Ownership Act.

In connection with the signing of this agreement, several actions were required of the membership and the current Board. I might add that in an attempt to control our legal expenses, the Board wrote the first draft of these documents and expended a great amount of time in reading and commenting on subsequent drafts before they were ever submitted to our attorney and ultimately to you for a vote.

First – the Board was required to present a draft of the new Declaration of

Covenants, Conditions and Restrictions to Elk Springs LLC to replace the current Declaration that was signed in November 1990. The draft was given to the LLC on December 23rd.

Second – the membership of the HOA was required to ratify the Transition agreement. The ratification required approval by the majority of the non-LLC owned lots - or 84 votes. The vote took place in January and 92 votes were cast in favor of the ratification.

Third – The HOA had until May 8th to obtain approval of an amended Declaration and Articles of Incorporation requiring an affirmative vote of at least 80% of the members of the HOA, including the developer votes. The vote took place on April 10th with 84% of the membership approving the amended Declaration and Articles of Incorporation.

Getting our Owners to vote is not an easy thing. I want to thank Mary Beth Minion for all her efforts in getting out the vote. She personally made phone calls and stopped by your homes to obtain your proxy document. I also want to thank Amanda Maurer for her guidance to the Board in ensuring that we complied with all CCIOA requirements in the drafting of our new documents and interactions with the developer.

Also along the lines of governance matters, the Board approved the amendment to our Bylaws in May which included more specificity in our policies and eliminated some of the inconsistencies and ambiguities in our governing documents. In June, we updated eight of our existing policies and procedures and drafted five new policies covering:

- Holiday Lighting and Decorations
- Registration of E-Mail Address
- Posting of Political Signs
- Display of the American Flag and Service Flag
- Document Retention
- Increases in Assessments

The Board was always focused on the fact that any new document, rule or policy had to be clear, fair, enforceable and unambiguous.

Enhance communications to all of you –

The Board rolled out our new website – **elkspringshoa.com** - in July. The website provides all the documents governing our HOA as well as meeting notices and agendas, minutes of meetings, news and activities, member updates, information for realtors as well as “frequently asked questions.” This website has been designed as a “one-stop-shop” for all the information on our HOA. We want to continue to enhance the website and provide the information you need and appreciate the input you have provided to

date. If any of you have suggestions or ideas for content or pictures that you have of the community, please forward these to Mary Beth Minion.

Also along the lines of enhanced communications, we provided periodic updates which have been emailed to you and posted on the website. If you are not receiving these, please go to the website and complete the Member Information Form and submit to our property manager.

Organization and CCIOA compliance –

There were several accounting and financial matters that the Board and in particular, Georgia Boyd, dealt with in the past year. First of all, CCIOA compliance requires that the financial statements of the Association be reported under the accrual method of accounting. Georgia worked with our prior property management company in the conversion of our books and records which was not an easy task considering all the issues that we encountered with our prior property management company. I am not going to go into all the details as I know many of you dealt with these in connection with the billing of our Association assessments and water billings. But I will say that as frustrating as this was for you was multiplied tenfold for Georgia and the Board. Hundreds of hours were spent in reconciling our accounts and ensuring that our financial resources were safeguarded and accounted for properly.

The Association underwent an audit of its financial statements as of December 31, 2016 and for the two years ended December 31, 2016. There was only one significant adjustment that related to the recording of road improvements as a capital asset which is not permitted under generally accepted accounting principles. The audited financial statements are available upon request to IMM. We are not putting the audited financial statements or the monthly financial statements on our website as we consider this confidential information only to the Members of the Association. If any of you here are familiar with a financial statement audit you know that preparing documentation for the audit takes a great deal of time and effort and I want to thank Georgia for her efforts in connection with the audit.

Since 2015, the Association has had four property managers. As a result, there were boxes upon boxes of Association documents and information scattered about in the storage facility, various offices, computer disk drives, etc. The Board accumulated all the information and organized the files, prepared a 25 page index of all documents related to the Association and where such document is located. There is still some work in this area in connection with the computer-based files but we came a long way in safeguarding our documents and information required to be retained under CCIOA.

Also, the Association did not have a “reference manual” for the Board of what to do, where to find it and when it needs to be done. Georgia Boyd compiled such a manual which can be given to future Boards for their use. We also compiled an annual calendar of required activities and the deadlines for such.

Considering the significance of our water operations that the Association took over on January 1, 2016 and the requirement for future repairs, maintenance and replacement of the water facilities, the Board adopted a resolution to establish the Water Facilities Management Committee. We are fortunate to have individuals that are very knowledgeable of both the operational and financial requirements of our water operations.

One other item of CCIOA compliance – your Board went through Board training as to its fiduciary roles and responsibilities and all of you will receive training as required by CCIOA.

Property Management Issues –

In June, the Board terminated the agreement with Fleisher and began an extensive selection process that concluded with the selection of IMM at our Board meeting on October 16th. I want to thank Brandon Watson for taking an active role in maintenance matters and Georgia for overseeing the financial and billing issues.

IMM is starting on several deferred maintenance projects, including trimming of dead trees, painting the cinder barrels, updating the gate directory and codes and replacing several signs at the front gate.

IMM is the first call you should make to report any operational matter in Elk Springs including maintenance or repair issues regarding the HOA common area, general questions regarding Elk Springs, covenant/rules violations, etc. Don't forget that our website, elkspringshoa.com has information regarding our community as well.

Dalby, Wendland is our new accounting/bookkeeping service. With offices here in Glenwood Springs, Dalby, Wendland is the largest public accounting, audit, and business advisory firm headquartered in western Colorado. With their economies of scale and expertise, we are able to reduce the cost of bookkeeping services to our HOA.

Dalby, Wendland has been working closely with the Board to transition the billing and accounting records from our previous bookkeeping service. **For questions regarding your billing and payments**, please e-mail Tiffanie Miller. Tiffanie's telephone number and e-mail was provided to all Members in a separate e-mail communication. Also, all payments should be sent to ESHOA in c/o DW. Many of you use bank bill payment services so please be sure and change the address for Elk Springs HOA.

Your Board has had over 6 meetings with each of these providers to ensure a clear understanding of roles and responsibilities of each provider as well as the Board. We also prepared an information binder for each provider – similar to the Board Reference Manual. We believe that the investment of this time up-front will ensure a seamless transition and reduce the amount of time spent by your Board in the future.

And speaking of the future, there are several matters that your Board will be focusing on in 2018 –

We have found in the administration of several of our policies, that oftentimes our policies and rules are “folklore” or “that is the way it has always been done” and oftentimes not documented anywhere. Or we have found them to be ambiguous and not very clear. Or we have found that they were administered based on personal preference. As a result we will be drafting updates to our policies and guidelines to ensure consistent, fair and transparent guidelines and enforcement -

- Architectural Review
- Unit Modifications
- On and Off-Street Parking which will consider the designation of an area for the parking of recreation and other vehicles
- Rules Administration
- Purchasing and Contractual Agreements
- Monthly and annual accounting policies and procedures

Several of you have expressed a desire to have an on-site office/community center in order to enhance the attractiveness of our community and enhance a sense of community. The Board will be exploring this option in 2018 and hopefully present a proposal to the Association in the next year.

In addition, due to vandalism at the front gate, Owners physically posting their access code at the front gate to allow guests in the property and the fact that some owners have given their access code to construction workers who enter the subdivision before approved construction hours, there is a need to enhance the security at our front gate. The Board will be exploring ideas to improve security through increased lighting, camera surveillance and more frequent updating of access codes.

The Board will also be reviewing the need for Reserve Studies in connection with our roads and water facilities. We want to ensure that we have adequate funds to take care of required and unexpected repair and replacement matters. At the beginning of 2017 when your Board was elected, the Association’s reserves totaled \$411,000. During 2017 those reserves are estimated to increase to \$563,000 and the approved budget for 2018 reflects an increase to approximately \$718,000. Your Board continues to be focused on fiscal responsibility and we take our fiduciary responsibility very seriously. Along those lines, we will be developing a multi-year Plan for our Association along with a budget outlining the capital improvement and maintenance items coming out of that Plan.

Finally, in order to protect our maintenance assets (such as the tractor), the Board will consider the construction of a maintenance shed at the East Water Tank to house such equipment as well as the items that are currently being stored in the Association’s storage facility at the bottom of the hill.

Although each of you are the judge of how effective we have been the past year, I assure you that in any decision made or action taken by the Board, we have always focused on transparency, obtaining input from the Membership and that such decision is fair and clear.

Amanda Maurer presented owner education as to the general operations of the HOA and rights and responsibilities of Owners, the HOA and its Board. An outline of her remarks follows:

What is the purpose of a Community Association?

People choose to live in community associations for numerous reasons. Many association owners value the inherent benefits offered by community association living. Community associations are designed to:

- Manage common areas of the property
- Manage property interests of owners
- Provide services for owners
- Develop a sense of community through social activities and/or amenities.

The Homeowners Association Defining Characteristics

- Has possession and title to the common elements.
- Is responsible for the maintenance, administration and control of the community through the establishment of a system of property rights, binding covenants and restrictions and rules and regulations.
- Membership in the community association is mandatory and automatic for all owners. This is unlike other associations whose membership is voluntary.
- Certain documents bind all owners to be governed by the community association. These documents require mutual obligations to be performed by the individual owner and the community.
- Mandatory lien-based economic charges or assessments are levied on each owner in order to operate and maintain the community association.

What is the legal basis?

- Colorado Common Interest Ownership Act (CCIOA)
- Colorado Non-Profit Corporation Act
- Compliance with federal law
- Court decisions
- Governing documents, including:
 - Plat
 - Declaration, DRG;s
 - Articles of Incorporation

- Bylaws
- Resolutions / Policies
- Rules & Regulations

Roles and Responsibilities

Owners: The basic authority in a community association lies with the owners. However, the owners elect a board of directors to act on their behalf. Usually the governing documents delegate almost all of the association's decision-making powers to the board.

The owners have the voting power to:

- Elect and remove directors
- Amend certain governing documents, except board resolutions
- Veto budgets (ratification process per bylaws and State Law)

Owners have the responsibility to:

- Read and comply with the governing documents.
- Maintain their property according to established standards.
- Treat association leaders honestly and with respect.
- Vote in community elections and on other issues.
- Pay association assessments and charges on time.
- Contact association leaders or managers, if necessary, to discuss financial obligations and alternate payment arrangements.
- Request reconsideration of material decisions that personally affect them.
- Provide current contact information.
- Ensure that those who reside on their property adhere to all rules and regulations.

The board of directors bears the ultimate responsibility for operating the community association on behalf of its owners. It is the role of a board to set the policies, standards, procedures, programs and budget of its association. A board may implement its own decisions – or delegate implementation to a manager, committees, or an independent contractor.

The role and scope of authority of the board may be broad or specific, depending on the association's governing documents and the law. Most governing documents and state law provide the board with the same authority as a corporation. Examples of powers generally granted by the governing documents and state law to the board include:

- The authority to set goals, standards, and policies for the association
- Enforcing the governing documents
- Maintaining the property
- Maintaining the association's financial stability
- Purchasing adequate insurance
- Entering into contracts for services

- Creating and supervising committees
- Conducting annual meetings and board meetings

In summary, board members have the responsibility to:

- Fulfill their fiduciary duties to the community and exercise discretion in a manner they reasonably believe to be in the best interests of the community.
- Exercise sound business judgment.
- Balance the needs and obligations of the community as a whole with those of individual owners/residents.
- Understand the association governing documents and become educated with respect to applicable state and local laws.
- Establish committees or use other methods to obtain input from owners.
- Conduct open, fair, and well-publicized elections
- Welcome and educate new members of the community
- Encourage input from residents.
- Encourage events that foster neighborliness.
- Conduct business in a transparent manner.
- Allow owners access to appropriate community records.
- Collect all monies due from owners
- Provide a process residents can use to appeal decisions affecting their non-routine financial responsibilities or property rights.
- Provide complete and timely disclosure of personal and financial conflicts of interest related to action of community leaders.

Committees:

Committees are the backbone of the association. Developing an active, capable volunteer group through the formation of committees promotes a healthy community association. They focus on topics ranging from finance to architecture. Committee reports help the board to make informed decisions. Association bylaws and documents provide the board with the authority and oftentimes the guidelines on setting up committees. The way a committee is structured, and the guidelines established for functions and interaction with the board, affects the committee's success. Elk Springs currently has three committees: Architectural Review Committee, Rules Committee and Water Facilities Committee. Occasionally an executive board committee will be established for a specific purpose such as working on a draft of updated HOA governing documents for review by the membership and board.

Management:

Integrated Mountain Management, as your management services company, implements administrative and operational actions per the direction and decisions made by the board. Dalby Wendland provides fiscal management of Elk Springs.

Conclusion

A successful community association requires the efforts of many people in order to be successful. Committee members, board members, and officers all have roles to play; and an active, informed, interested membership is perhaps the most important component of all.