

EAGLE BEND WEST COMMUNITY ASSOCIATION INC.

BOARD MEETING

MARCH 13, 2023, 5:00 P.M.

WESTERN MOUNTAINS PROPERTY BOARD ROOM

Call to Order: President John Cannon attended the meeting by video conference and called the meeting to order at 5:00 p.m. Board members in attendance were Bill Whitsitt; Kevin Kleckner and Dena Brunskill and Chris Walthall attended via video conference, along with homeowner David McIntyre. Property Manager Dave Roberts attended the meeting in person.

John Cannon announced that the meeting was being recorded and that by attending each person agrees to the recording and that proper meeting notice has been provided.

Adoption of Minutes: Bill made a motion to adopt the minutes as presented but with permission to make minor typo or spacing corrections. This was seconded by John. The vote was taken by voice with three members in favor and two opposed. Motion passed.

Presidents Report:

DRC and Communication Update: Steve Sanders has given permission to deposit his check in compliance with the DRC guideline and his plans have been approved. Bill had clarified the confusion regarding how the deposit could be used.

Common Area Title Transfer: Attorney Randy Snyder is working on the annexation of the common area and at our next meeting he felt the transfer would be finalized. Chris said three homeowners have used Randy for legal work and questioned if that was a conflict of interest. John said that is not a conflict of interest, but if homeowners who use Randy for their legal work wanted to address this, they could ask him if this is a conflict.

Property Manager's Reports:

Pavilion: Dave discussed the different maintenance items. He has met with a roofer to conduct an inspection to determine if there is hail damage to the roof

and if EBW should be submitting a claim for damages. The maintenance cost for the pavilion is paid for through the \$65.00 fee which all 156 homeowners pay each year. Due to the increase of materials and labor all homeowners in 2023 will begin paying \$75.00 a year for pavilion maintenance. Expenses for 2022 were \$9,436 which left \$1,203. The charge to rent the pavilion is \$400.00. Due to the restriction of no music amplification, the pavilion is used very little, but the bathroom gets used by the walkers and workers in the area.

Legislation Regarding HOAs: Dave will be sending out copies of three (3) new bills that the senate is looking at right now. House Bill 187 would remove zoning prohibitions on childcare center in HOAs. Senate Bill #376 would require HOAs to re-certify and re-register all CC&Rs every five (5) years. Dave and Bill will keep the Board updated on these bills and if they will be voted on during the session.

Treasurers Report: Kevin provided a detailed financial report. Income from first quarter dues was posted at \$25,740 and no significant late payments or aging receivables.

January expenses included Western Mountains management fee, postage website billing, electric, legal expenses of \$1428 and snow removal of \$1800, which was the plowing done in December but not billed until January.

Two deposits of \$5,000 each from Sanders and Noel will be held until construction has been finalized and approved. In Capital Reserve a balance of \$54,645 and in Operation checking a balance of \$55,000. In the Road Reserve there is a balance of \$85,868 in the form of a CD at Fidelity and at Rocky Mountain Bank in a checking account there is a balance of \$1000. Kevin also provided a current summary of the CDs owned by the community which total \$87,573.

Capital Projects: Kevin provided a comprehensive package that had been sent to the Board. He highlighted 16 areas around the community that would need to be addressed in 2023 and some that may be 5 to 10 years out. The immediate project is to fix the drainage at the McIntyres' home. Dave and Kevin will be looking at different solution and talking with contractors. There is \$4500 put aside right now and this is just an estimate of the possible cost. The Board will have a better idea of the scope of the problem when they have talked with a contractor.

The erosion on the north side of the canal was discussed and how this could be repaired. New signage at the entrance of the community was discussed as one sign into EBW still says Harbor Village on it. Other potential items included: improving the landscape behind the waterfalls; upgrading the waterfall pump that would have a higher efficiency and yet lower noise level; installing surge and light suppression on the pump and electrical distribution; and, community mailboxes, one set of which has a door that is not working, and a cost of new boxes was provided for the Board to review for possible future replacement.

The Board thanked Kevin for providing a detailed report and will review this and see which items are necessary expenses for 2023 and prioritize the improvements.

Old Business:

On February 1, 2023 the Board voted electronically to extend Western Mountains Property Management contract with EBWCA for three (3) years through March 31, 2026, four in favor and one opposed. Motion passed.

Bill reported on discussions with owner Steve Sanders that led to his remodeling construction deposit check's being deposited, and the Design Review Committee's approval of his project. Mr. Sanders concerns have been addressed with clarification of the DRC's use of such deposits. A proposed clarification of the Design Review Guideline language on when and for what purposes a construction or design change deposit, or a portion of it, may be withheld was later provided by Bill and adopted as Board policy. The full resolution is provided below, but essentially it stated that "Specific purposes for which the \$5000.00 deposit, or portion of it, may be withheld and used by the DRC are limited to repair of damages", and these damages are listed. That the deposit is to be used for damages and not for fines was not clear in the existing Design Guidelines. The resolution, first proposed in October, 2022 is as follows:

Resolution: Instructions for Amendment to Design Review Guidelines to Clarify Withholding and Use of Construction Deposits by EBWCA

To clarify Design Review Guideline language on when and for what purposes a construction or design change deposit, or a portion of it, may be withheld and used by the EBWCA, the following resolution is proposed:

The Form #3 (*Construction Application*) and **Form #4** (*Application to Make Design Change*) descriptions and instructions paragraphs of the Design Review Guidelines in effect on November 21, 2022, shall be amended to read:

Form #3 (*Construction Application*) – *Completion of documents accompanied by a \$5000 deposit per unit or lot made payable to “Eagle Bend West Community Association, Inc.”. After submission and approval construction may begin. Specific purposes for which the \$5000.00 deposit, or portion of it, may be withheld and used by the DRC are limited to repair of damages to roads or shoulders, damage to trees caused by construction, site clean-up, adjacent property clean up, or removal of material from roadways or unauthorized storage areas and any other reason the DRC deems necessary to guarantee correcting damages caused by construction. Additional funds, over and above the initial deposit amount, will be required if out-of-pocket expense exceeds \$5000.00. Any unused portion of the construction deposit shall be returned upon completion of the project.*

Form #4 (*Application to Make Design Change*) – *Include three (3) sets of drawings and a deposit of \$500.00 - \$5000.00 (to be determined by the DRC dependent upon specific project) made payable to “Eagle Bend West Community Association, Inc.”. This form will be required to initiate the approval process for remodeling or, an addition to, an existing structure. Specific purposes for which the deposit, or portions of it, may be withheld and used by the DRC are limited to repair of damages to roads or shoulders, damage to trees caused by construction, site clean-up, adjacent property clean up or removal of material from roadways or unauthorized storage areas and any other*

reason the DRC deems necessary to guarantee correcting damages caused by construction. Additional funds, over and above the initial deposit amount, will be required if out-of-pocket expense exceeds the deposit amount. Any unused portion of the construction change deposit shall be returned upon completion of the project.

After some discussion Bill made a motion to adopt these changes to the Design Guidelines. John seconded the motion, and the vote was conducted by voice with three (3) in favor and two (2) opposed.

Clarification Policy on Permissible Use of EBWCA Residential Property

In response to questions that had been raised previously, Bill provided a proposed resolution (first proposed in October of 2022) to clarify permissible residential property uses within Eagle Bend West – as long as they do not violate nuisance, parking or other provisions of CC&Rs or other governing documents. The resolution follows:

Policy on Permissible Residential Property Use on a Lot.

In accordance with the Eagle Bend West Community Association, Inc. CC&Rs, the following policy is to clarify permissible residential property uses on a lot, and to resolve confusion over business registrations using a residential address:

The establishment and use of a home office, or arts and crafts, woodworking, or similar area in a dwelling unit is allowed as long as such use does not violate the design guidelines, nuisance, parking, or other provisions of the CC&Rs that prohibit any activity that may be offensive or detrimental to other property or occupants of such property in the vicinity. An Eagle Bend West address may also be used for business or organization registration as required by the Office of the Montana Secretary of State.

Bill made a motion that the Board approve this policy resolution draft and John seconded the motion. The vote was taken by vote with three in favor and two opposed. Motion passed.

New Business:

Renschler Easement: There was general discussion of the fact that owners Tim and Dru Renschler have been discharging water from their crawl space over time. First it went into the street, and then into the vacant lot that they own and now onto the common area behind their house. This common area is mowed and maintained, and the area is a 30-foot strip and has a flat surface.

Last year the mowers were having trouble mowing due to the water causing the common area to become very swampy, so it was no longer mowed. Bill has talked the Renschlers' and said that they will likely want to put in a drain line from their house into the pond when they return to Eagle Bend West this spring. There was discussion regarding the connection between the pond and the canal. Also, it was agreed that more information is needed from the Renschlers' regarding size of drain pipes, its placement, etc., and indemnification if this runs a risk of failure. Another area that will need to be addressed is who is responsible in the future for the maintenance of the drainpipe. The Renschlers' have come to the Board members talking about the problem but have not furnished written specifics or a drawn-out plan. It was agreed that the Board cannot give approval without this documentation and that this is not an HOA problem but the individual homeowners' problem, therefore they are the ones who need to gather information and come to the Board with their proposal in writing. Again it was stated that the Board will need to make sure the HOA will not be responsible if, in the future, the drainage fails. John stated that a letter had been mailed to them in the past asking them for a written plan and as of this date nothing has been provided. Bill offered to call them and to remind them that they need to provide the Board with a schematic of what they are planning and a detailed report of the type of pipe and its size. Bill indicate the need for some relatively simple indemnification language drafting that they might consider providing to the Board with their plan. John told Bill to proceed and give them a list of what they need to do and advise them that they are responsible for paying for this.

Election Change Process: There was discussion that the proposed changes to the election process that continue to raise questions from some Board members. Bill reviewed the minutes of the September 13, 2022, meeting in which the agreed upon potential changes were listed and addressed in detail. There would be one

or two changes to the CC&Rs, and the community would need to vote on these before the Annual Meeting in August. Another area that will need to be addressed is the Board's terms and how to stagger the terms of each position. Bill wants the Board to be very transparent to the community regarding these changes.

Next meeting is scheduled for May 15, at 5:00 p.m.

Adjourn: Bill made a motion to adjourn, and John seconded the motion. Meeting adjourned at 6:30 p.m.

Bugsy Yarbrough Recording Secretary

*Approved as proposed
at Board Mtg 5/15/23.
W. Schubert
VP & Secretary
5/16/23*