

LAKELAND VILLAGE COMMUNITY CLUB
Budget Community Budget Meeting
February 25, 2020

Date: February 25, 2020

Location: Lakeland Village Community Club

Dennis Floyd called to order the meeting to order at 7:00pm.

Board Members Present: Cindy Ross, Maureen (Mo) Allen, Dennis Floyd, Vince Marabella, Jeremy Jones, Michael Pearce, Les Dennis, Don Huibregtse

Others Present: Laurie Swetkovich, 37 Community Members

Absent: N/A

Announcement: The meeting is being recorded. If at any time someone would like the recording to stop, please inform the board, otherwise it shall be deemed that we have consent to record.

Introduction of Board Members

LLVCC President Dennis Floyd welcomed the community and introduced board members.

Budget Proposal

Cindy Ross reviewed the proposed budget with community attendees and responded to questions and comments.

Questions were asked about the reserve account, and the requirements. LLVCC's attorney Rob Wilson-Hoff legal opinion was reiterated. The LLVCC attorney's comments are attached.

A resident voiced his concern about paying for the lake's maintenance when they don't live on the lake as they didn't feel it was equitable. The resident also brought up that the golf course's ponds dump into the lake, and he felt the golf course owners should contribute to treatments of the lake. Dennis Floyd responded that he has spoken with Aqua Technix and Steve Anderson, the owner's representative of the Golf Course, about treating the ponds in a similar manner as LLVCC treats the lake.

A resident was concerned because they believed that the Patrol team never drives down the street into Gen I condos, and that homeowners have to pay an additional fee for Patrol "walk arounds". The resident would like this service at no additional cost.

Introduction of those running for the Board of Directors

Dennis Floyd introduced individuals running for the Board.

President's View

Dennis Floyd, President of LLVCC spoke about his view of the Board's duties, goals, projects, improvements and community cohesiveness. He requested volunteers to: (1) be on a Welcoming committee, (2) lead the Recreation committee, and (3) become a Board member as there is a vacant position.

General Meeting

Collection of ballots occurred, ballots were counted, and results of voting was made.

Board Members

Cindy Ross 170 Yes Votes

Michael Pearce 170 Yes Votes

Les Dennis 170 Yes Votes

Budget w/ HOA Dues of \$215 annually

140 Yes 33 No

Waiver of Audit

142 Yes 31 No

Motions

Destruction of Ballots:

Motion: Les Dennis moved to destroy ballots

Second: Vince Marabella

Aye: 7

Opposed: 0

Abstained: 0

Meeting Adjournment

Meeting Adjournment: 7:57 pm

Motion: Vince Marabella motioned to adjourn the meeting.

Second: Jeremy Jones

Aye: 7

Opposed: 0

Abstained: 0

Respectfully submitted,

Cindy Ross, Treasurer/Secretary

To: Dennis Floyd, Board of Directors
LakeLand Village Community Club
From: Robert Wilson-Hoss
February 27, 2020

Dennis, you asked for copies of advice I have given the Board about reserve studies. I sent the following on October 21, 2019:

Reserve Study - You Need to Have One

You are going to need to deal with a reserve study before you get very near to creating a budget, because mandatory parts of the budget summary and the budget itself all refer to the reserve study. First, you are required to have a reserve study unless the cost exceeds 5% of your annual budget (I know, how do you know what the cost is? The highest bid, the lowest bid, the average? Bad Legislature). Or, unless you don't have significant assets, or there are ten or fewer homes in the association. LakeLand has significant assets, and its budget is around \$170,000; 5% of that is \$8,500, and you can probably find a reserve study professional to do one for that or less. The components of a reserve study are set by the statute, and the fact is that you will need to have a reserve study professional do this for you.

Get bids from multiple reserve study professionals, check their references, and look at their work closely. Pick wisely. Once you get a relationship with a reserve study professional that works, the study itself will help you meet your obligations under the statutes below to include information about the reserve study in the budget and the budget summary. You should make sure that any reserve study report actually addresses all of these issues, or you are going to have to go back to the professional to get more information that should have been given to you in the first place.

My Advice

I personally see all of this as just another example of King County urban planners imposing their detailed requirements on all the rest of the world. Seattle telling Mason County how to administer things according to a stupidly complicated bureaucracy. I have been fighting that war for homeowners' associations for about 35 years, and pretty much always losing.

On the other hand, for any business owner, or even homeowner, the ideal is to clearly understand what you have, how long it will last, and how you will

replace it. This allows you to save for future eventualities that will require you to pay to repair, maintain and replace. If we all paid into an account for car maintenance, every month, the next time we need to replace a transmission, the money will be there.

This isn't just our money and our assets, though. It all belongs to the members, so the Board must be really careful about taking good care of everything. Reserve studies are the best way to be intentional and strategic about that, and for the Board to do what it needs to do to best protect the Association, and the members' money and assets. My advice is to grin and embrace it and know that you are helping the Association get to the best possible place around managing its assets.

State Statutes – Reserve Studies

You also asked for the state statutes that apply which impose these requirements. A summary of these is, you have to do a reserve study; it has to be done by a reserve study professional; it has to have certain sections to it; but if you don't, there is no reserve study police. All that can happen to you is that the members can force you to do one. Then the question is, do you ignore a statute that says you have to do it, because, you can't get sued personally for not doing it? Or do you follow the statute?

In addition, and not included below, is the new statute that says, when you are putting together your budget, it must include whether you have a reserve study that meets the standards, how the budget differs from the reserve study recommendations, and how much money you are short in your reserve account on a per unit basis. Such as, if we fully funded the reserve components, we would need \$1,000,000, and we have 1,000 lots, and we have \$100,000 in our reserve account, so we are short \$900,000, and that means that each lot is short \$900.

So, each year you do not fully fund your reserve account, you must report to the members, in the budget, all of these things. Sorry.

Here are the statutes:

64.38.065. Reserve account and study

(1) An association **is encouraged to establish a reserve account** with a financial institution **to fund major maintenance, repair, and replacement of common elements, including limited common elements that will require major**

maintenance, repair, or replacement within thirty years. If the association establishes a reserve account, the account must be in the name of the association. The board of directors is responsible for administering the reserve account.

(2) Except as provided in [RCW 64.90.080](#) and [64.90.545](#), unless doing so would impose an unreasonable hardship, **an association with significant assets shall prepare and update a reserve study, in accordance with the association's governing documents and this chapter. The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional.**

(3) Except as provided in [RCW 64.90.080](#) and [64.90.545](#), unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional.

(4) The decisions relating to the preparation and updating of a reserve study must be made by the board of directors in the exercise of the reasonable discretion of the board. The decisions must include whether a reserve study will be prepared or updated, and whether the assistance of a reserve study professional will be utilized.

- You are “encouraged” to have the money in an account;
- You must have the reserve study done;
- It must be done by a reserve study professional.

64.38.070. Reserve study--Requirements

(1) A reserve study as described in [RCW 64.38.065](#) is supplemental to the association's operating and maintenance budget. In preparing a reserve study, the association shall estimate the anticipated major maintenance, repair, and replacement costs, whose infrequent and significant nature make them impractical to be included in an annual budget.

(2) A reserve study must include:

(a) A reserve component list, including any reserve component that would cost more than one percent of the annual budget of the association, not including the reserve account, for major maintenance, repair, or replacement. If one of these reserve components is not included in the reserve study, the study should provide commentary explaining the basis for its exclusion. The study must also include quantities and estimates for the useful life of each reserve component, remaining useful life of each reserve component, and current major maintenance, repair, or replacement cost for each reserve component;

(b) The date of the study, and a statement that the study meets the requirements of this section;

(c) The following level of reserve study performed:

(i) Level I: Full reserve study funding analysis and plan;

- (ii) Level II: Update with visual site inspection; or
 - (iii) Level III: Update with no visual site inspection;
 - (d) The association's reserve account balance;
 - (e) The percentage of the fully funded balance that the reserve account is funded;
 - (f) Special assessments already implemented or planned;
 - (g) Interest and inflation assumptions;
 - (h) Current reserve account contribution rates for a full funding plan and baseline funding plan;
 - (i) A recommended reserve account contribution rate, a contribution rate for a full funding plan to achieve one hundred percent fully funded reserves by the end of the thirty-year study period, a baseline funding plan to maintain the reserve balance above zero throughout the thirty-year study period without special assessments, and a contribution rate recommended by the reserve study professional;
 - (j) A projected reserve account balance for thirty years and a funding plan to pay for projected costs from that reserve account balance without reliance on future unplanned special assessments; and
 - (k) A statement on whether the reserve study was prepared with the assistance of a reserve study professional.
- (3) A reserve study must also include the following disclosure: “This reserve study should be reviewed carefully. It may not include all common and limited common element components that will require major maintenance, repair, or replacement in future years, and may not include regular contributions to a reserve account for the cost of such maintenance, repair, or replacement. The failure to include a component in a reserve study, or to provide contributions to a reserve account for a component, may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a reserve component.”

- There are complicated rules for what must go into your reserve study. No one who is not a reserve study professional is competent to do the reserve study, in my opinion;
- A “reserve study professional” is an independent person who is qualified by knowledge, skill, experience, training or education to prepare a reserve study;
- The reserve study names all the components, or things, and how long they will last and what it will cost to replace them;
- It also shows how much money should be saved each year to get to the amount you need.

64.38.075. Reserve account--Withdrawals

An association may withdraw funds from its reserve account to pay for unforeseen or unbudgeted costs that are unrelated to maintenance, repair, or replacement of the reserve components. The board of directors shall record any such withdrawal in the minute books of the association, cause notice of any such withdrawal to be hand delivered or sent prepaid by first-class United States mail to the mailing address of each owner or to any other mailing address designated in writing by the owner, and adopt a repayment schedule not to exceed twenty-four months unless it determines that repayment within twenty-four months would impose an unreasonable burden on the owners. Payment for major maintenance, repair, or replacement of the reserve components out of cycle with the reserve study projections or not included in the reserve study may be made from the reserve account without meeting the notification or repayment requirements under this section.

- If you have a reserve account with savings in it, you can withdraw from that account only for maintenance, repair or replacement of reserve components,
- Unless you get approval from the membership, etc.

64.38.080. Reserve study--Demand for preparation and inclusion in budget

(1) When more than three years have passed since the date of the last reserve study prepared by a reserve study professional, the owners to which at least thirty-five percent of the votes are allocated may demand, in writing, to the association that the cost of a reserve study be included in the next budget and that the study be prepared by the end of that budget year. The written demand must refer to this section. The board of directors shall, upon receipt of the written demand, provide the owners who make the demand reasonable assurance that the board will include a reserve study in the next budget and, if the budget is not rejected by a majority of the owners, will arrange for the completion of a reserve study.

(2) If a written demand under this section is made and a reserve study is not timely prepared, a court may order specific performance and award reasonable attorneys' fees to the prevailing party in any legal action brought to enforce this section. An association may assert unreasonable hardship as an affirmative defense in any action brought against it under this section. Without limiting this affirmative defense, an unreasonable hardship exists where the cost of preparing a reserve study would exceed five percent of the association's annual budget.

(3) An owner's duty to pay for common expenses is not excused because of the association's failure to comply with this section or this chapter. A budget ratified by the owners is not invalidated because of the association's failure to comply with this section or this chapter.

- If you don't do a reserve study, then the members can demand that you do one;
- If you still don't do one, you start facing the risk of losing attorney fee awards and so on.

64.38.085. Reserve account and study--Liability

Monetary damages or any other liability may not be awarded against or imposed upon the association, the officers or board of directors of the association, or those persons who may have provided advice or assistance to the association or its officers or directors, for failure to: Establish a reserve account; have a current reserve study prepared or updated in accordance with the requirements of this chapter; or make the reserve disclosures in accordance with this chapter.

- If the Board doesn't do a reserve study, then the Board members can't be sued for not doing one.

64.38.090. Reserve study--Exemptions

Except as provided in [RCW 64.90.080](#) and [64.90.545](#), an association is not required to follow the reserve study requirements under [RCW 64.38.025](#) and [RCW 64.38.065](#) through [64.38.085](#) if the cost of the reserve study exceeds five percent of the association's annual budget, the association does not have significant assets, or there are ten or fewer homes in the association.

- You don't have to do one if the cost exceeds 5% of your budget, you don't have significant assets, or there are ten or fewer homes in the association.
- You must do one. None of these exemptions applies.