

WATER PLAN

On March 24, 2018 the HOA conducted a special meeting to brief all members on the need to develop a new water plan and to amend the COSA. Following that meeting the HOA engaged HEI to prepare an engineering plan that would provide all units with an opportunity to connect to a community well (See, attached retainer letter dated May 24, 2018). HEI recently provided the HOA with the attached report that identifies six potential community well sites, well groups and approximate costs for all units. Please note that HEI's costs are merely rough estimates and may vary significantly from actual expenses. Because the DEQ has limited community wells from nine to six (four of which require waivers from adjacent owners), a variety of matters need to be attended to before the community can be provided with a final plan. At the Annual Meeting the HOA will bring all owners up to date on the current plan and issues, get member input and discuss next steps.

A broad outline of the new water plan is as follows:

(1) Since all units at Timbrshor have a 2% interest in common property, all units are being provided with an opportunity to connect to one of the community well locations.

(2) Community well assignments would be permanent rights that would run with the land.

(3) The plan would allow the 13 existing non-compliant units to connect to a community well when ordered to do so by the DEQ, and it would allow all other units to connect to a well when, and if, they choose to do so.

(4) Each unit would be responsible for all costs in connecting to its assigned well, and would share well development costs, on a pro rata basis, with the other units in its well group.

(5) In order to develop or connect to a community well, members would need to subscribe to the Association's Water Well Agreement. Attached, for your review and comment, is a draft of that agreement. If you have any questions or comments, please let us know. The Agreement has been reviewed and approved by the Association's attorney, Rob Erickson.

(6) The plan would not abridge the property rights of any owner. It would also allow members to connect to a well, as applicable: when ordered to do so by the DEQ; when they choose to develop a house; or when they decide to utilize a groundwater system rather than a grandfathered lake water system.

(7) The HOA has been advised by the DEQ that the building moratorium will be lifted once the plan is filed and approved by the State and County.

(8) The only immediate cost to members would be an assessment to each of the 47 developable units that wish to be included in the plan. These funds would be used to pay engineering and legal fees to develop the new water plan and amend the COSA. If, however, a member advises in writing that they don't want to be included in the new water plan, they will be removed from the plan and not included in the assessment.

(9) It appears that the most significant issues are (a) whether waivers can be obtained from adjacent land owners to allow for the development of various wells; (b) options that may exist if such waivers cannot be obtained; and (c) the pros and cons of having 14 or more units on a single well. HEI will be at Annual Meeting to discuss and take questions.

INFORMATION NEEDED FROM MEMBERS

The HOA would be most appreciative if members could review the enclosed materials, especially HEI's plan, and let us know as soon as possible if (A) you don't want to be included in the plan; (B) you have any issues with your well assignment; and (C) you have any interest in being assigned to a one or two person well (See, HEI's Report).

QUESTIONS AND ANSWERS

Question: Why would only 47 units pay the assessment?

Answer: Three of our 50 units are double lots (216/217, 403/404 and 418/419). Because only one house can be built on those lots, they are treated as a single lot for the purposes of dues and assessments.

Question: Does the Association have an obligation to implement a new water plan and amend the COSA?

Answer: Yes. Since the State and County belatedly linked fixing the water plan to lifting the moratorium, the Association does have a duty to amend the COSA as soon as reasonably possible so that the approximately \$796,000 that has been spent on the new community septic system finally attains the objective of lifting the building moratorium.

Question: Will all 50 units participate?

Answer: All 50 units are being afforded the opportunity to participate in the Water Plan, but members have a right to decline.

Question: Can the Association require owners to build wells and develop ground water systems?

Answer: No. Pursuant to the attached legal opinion, under Section 11 (f) of the Amended Declaration the Association would only have such authority if a regulatory body required immediate compliance (which was the case with the septic project). In the present situation, no units are under an immediate compliance order: the State has advised that 13 units will need to comply in the next 3-5 years or sooner; undeveloped units don't need to comply until they decide to build a house which may be never; and 17 units have been exempted. It should be noted, however, that per the legal opinion, upon a unanimous vote members could agree to adopt a community type water system similar to what was done with the septic system.

Question: Is this plan essentially voluntary?

Answer: Yes. While the Association does have an obligation to put in place a new water plan to lift the building moratorium, it is up to the members to comply with State water requirements either (1) when ordered to do so by the State, or (2) when they decide to develop their lot, or (3) when they choose to do so.

Question: What happens if a member ignores a State compliance order and refuses to move to the well system?

Answer. The burden and cost of defending against any DEQ enforcement order would be the sole responsibility of the member.

Question: How would well assignments be made permanent?

Answer: Upon approval of the plan and acceptance by the State and County, the Water Well Agreement would be filed with Lake County and it would confer upon all participating units a perpetual right to use their assigned community well to access ground water, and such rights would convey to the unit's successors and assigns. Please note that the Water Well Agreement allows members to connect to their assigned well after it has been built upon the payment of a hook-up fee that would be equivalent to that unit's pro rata share of construction and maintenance costs plus interest.

Question: Will all final decisions on this project be made by the Board?

Answer: Yes. Per the attached legal opinion the Board will consider the views and preferences of the members, but will make the final decision on behalf of the Association.

Question: What sorts of issues should members be concerned about in reviewing HEI's design and well assignments?

Answer: Issues that members might want to consider include: Is your assigned well in “reasonable proximity” to your unit? If you are one of the 13 existing non-compliant units, are you assigned to a well that has a sufficient number of other members in the same situation that will enable a reasonable sharing of well costs? Might any of the well locations or proposed water lines interfere with your property rights? Are you interested in being on one of the “one person” or “two person” wells mentioned in HEI’s report. Lastly, because of DEQ restrictions on potential well sites, please understand that the ability to make adjustments to the plan may be limited.

Question: In the septic plan units on drain fields C and D paid significantly less than the other owners. Is anything similar being contemplated with the water plan?

Answer. No. That was a one-time event that was attributable to the fact that members on those drain fields received credits for “value in the ground” for septic hardware. No similar situation exists here. Each member is expected to pay its pro rata share of actual well construction expenses, and all expenses to connect their water lines to their assigned well.

MOTION

The HOA will be asking members at the Annual Meeting to approve the following motion: That the Association supports the efforts of the Board to continue to develop a final water plan for the community, with the understanding that once the final details of the plan are resolved, that the new water plan in its entirety will be presented to the members for a vote at a special member meeting.