**Some Observations**

AQUARINA GOLF MAINTENANCE YARD

Aquarina Golf’s emerging and rising Industrial Complex near the Water Plant appears to become more of an expense than the Building Permit Applications sited. The Permit issued May 3, 2018 was valued at $63,000 for a canopy in the Maintenance Yard. Another Permit issued February 12, 2018 was valued at $36,780 for re-roofing and hardening the structure in the Yard. Both Permits were to address Storm Damage – a casualty.

The Aquarina Golf Maintenance Yard construction appears to be following the same behavior pattern as occurred at the Admin Building where the actual construction was different and well beyond what was requested on the Building Permit Application, i.e. $11,000 for Storm Damage (a casualty) though the agreement with the contractor was about $90,000 for a building renovation, not repair. Ask your Board of Directors what the agreement cost amount is with the contractor doing the construction at the Maintenance Yard. Is it just under $100,000 ($63,000 plus $36,780)? Ask the Board Members if the amount is in excess of $300,000!

Does it make sense to do a renovation and upgrade to the Maintenance Yard rather than a repair or restore to its previous working condition? This renovation is especially questionable when the golf course has a budgeted subsidy of $200,000 to carry it through the summer months. BTW – that subsidy is going fast.

The By-Laws and CC& R’s address the procedure when there is a casualty to the common elements, as was represented in the Building Permit Applications with the Admin Building and the Golf Work Yard. If the casualty repair costs surpass the insurance coverage payments, then the residents participate with a vote to determine at what extent any repair will be done, i.e. minimal, restore, duplicate replacement, or no action and have the common element removed, in which case the insurance proceeds are divided among and credited to the residents. The By-Laws and CC&R’s focus with this procedure is on assessments to cover any repair costs above the insurance payout.

However, it seems that the overage repair costs beyond the insurance payout was not through an assessment from a resident vote, but taken from our existing funds, i.e. reserves and savings. It is given that the spirit of the By-Laws and CC&R’s is to have the **residents participate by vote** in a decision to spend their funds on excess costs on common elements in need of repair, whether it be by assessment or existing funds. The vote should be listed on the agenda for a community meeting where the residents would then be made aware that they have the opportunity to decide to spend their funds or not. Do you remember seeing a vote for excess Work Yard repair costs on any past meeting agenda? Does it seem reasonable that the Board can take the residents’ funds for excessive costs without a vote, but only require a vote if the funds are assessed. Either way the funds are appropriated and a vote should apply for both means to access the residents’ funds.

PRIORITY STEP PLANNING WITH OUR RESERVES

Per our By-Laws and CC&R’s the Board has the discretion to fund reserves or not and decide on which of the different reserve fund categories, (Maintenance, Replacement, and Betterments) to use, and which of these categories to fund. Note the categories are numbered and ranked as to priority one to three, i.e. (1) Maintenance, (2) Replacement, and (3) Betterment. The legal definition of “Betterment” is to repair an asset beyond its original condition and add additional value. The Admin Building and the Maintenance Yard can be described as being in the “Betterment” category based on current Board actions.

However, since the Board submitted Building Permit Apps with the pretense of “storm damage” (even though renovation was the intent), the process as stated in the By-Laws and CC&R’s for a casualty (Storm Damage) is that the residents have a right to vote on costs that exceed insurance proceeds. The renovations and not the repairs exceeded the insurance proceeds. Was there a meeting agenda called to vote on these exceeded renovation costs? The Betterment card could be used as an excuse for the renovation, but a vote would still be needed. Is Aquarina so flush with funds that we can create new Common Elements leaving unfunded asset reserves in the dust?

Question – Considering the financial situation of Aquarina (its golf course debt, its assets lacking in being funded for replacement, and its businesses running at losses) and the fiduciary responsibility the Board should have with our funds, are we in a position to spend on “Betterments” rather than maintain and at most replace to original condition? This does not appear as a Board behaving with a fiduciary responsibility.

The CC&R’s, which supersede the By-Laws, repeatedly state a distinction between the Association’s (the Residents’) duties and the Board’s duties when Common Elements are discussed. The Board “maintains” and the Association “restores and replaces when necessary”. Restore and Replace can typically cost more than what may be budgeted, which may cause an assessment vote, or if funds may be available outside the Budget also should cause a vote to access these other funds.

The seven member Board serves the community to maintain its Common Elements, i.e. assets. If funds need to be spent outside the Budget, then the Association (the Residents) need to participate in a formal community vote to proceed with how much to spend or not to spend. This is not a seven person decision. These are our funds.

With our Common Elements currently underfunded for future replacement, does it make any sense at all to create and enhance current Common Elements (Admin Building and Maintenance Yard), which will result in yet more and further funding for them, when an actual repair or replace (if needed) to a common element’s previous condition is a more economical choice? Further, is it in the residents’ best interest, when a nonsensical choice just explained is decided solely by the Board without a community vote?

The practical approach with the Reserve Funds for our Common Elements is to first budget those Common Elements that are near the end of their useful life, second, to budget maintenance on those Common Elements in most need of attention, and third, to budget regular required maintenance on all the common elements. The Board needs to address its immediate needs before spending on Betterments (the last category of Reserve Fund use), which the Board has, unfortunately, been doing.

ARE THE BOARD OF DIRECTORS IN SYNC WITH THE BY-LAWS AND CC&R’S?

It appears that the Board of Directors have their own agenda and vision for Aquarina, but is that their function? Spending resident funds on carrying out an agenda and a vision is what you expect from a developer and not a Board of Directors. Their job is to maintain and be economical causing minimal community fees and assessments. I can tell you that over the past almost 35 years, it has been the maintenance fees at Aquarina that have stifled sales and appreciation. Sure we have experienced some nice value increases in the past two years, and the new construction has been successful – new always sells. However, the appreciation here of new construction and the appreciation of the older neighborhoods have been less when compared to neighborhoods outside Aquarina. Why? Because Board directed fees over the years could and should have been better managed. With improved Board management of how our funds are spent and resulting lower fees, our neighborhood values should improve.

Neighborhood values are not the only area that can be affected by high fees and consistent assessments. Certainly and most importantly are the wellbeing of the residents themselves with their quality of life. Many of the residents are retired and are on fixed incomes, whose personal budgets worked for them when they purchased here. Surely these folks did not foresee very questionable spending by a Board of Directors that continually increases the cost to live in this community.

The demographics in Aquarina are diverse. There are multiple price levels among all the neighborhoods. Is it fair that questionable Board spending, which drives resident community expenses higher, may impact some folks at a higher cost level then they anticipated? It would be expected that any Board expense decision would consider all the residents as a whole.

COMMUNITY CALLED MEETINGS

Because we function with a democratic process where residents can voice opinions and vote, the community should have control of itself. If residents feel that the community is not being served per its Laws, then the residents have a right to call a community meeting. There is a procedure, i.e. a signed petition of 30% of the voting units in the community. BTW – Directors are voted in and Directors can be voted out without cause.

Bottom Line

It appears that the Board has besieged a group of the community as their apostles and acolytes in support of their agenda.  If the Board and its following are the only active voices and doers of action in the community, then there needs to be a growing contingent of active and alternative voices and doers of action of those in agreement to what has been disclosed with this Blog. The community can then start a new direction for financial change. Are accepting the rising fees and continued assessments with an apathetic and just pay disposition, what is really wanted?