

175 Countv Road 248 P.O. Box 456 Durango. CO 81302

Enclosed please find a ballot containing two voting issues, in addition to a fiscal year 2019 proposed budget. The first item on the ballot is a proposed amendment to the Declarations governing our Homeowner's Association and the second item relates to an increase in our Capital Account Fee for the purpose of a full system upgrade for the water system.

In order to implement the proposed water project a **majority of the members of the HOA** needs to approve both the increase in the Capital Account Fee as well as changes in the Florida River Estates Declaration.¹

The HOA Board has held meetings for the membership to discuss the water system problems and possible solutions. Surveys were mailed and the current proposal had majority support from the members who responded and those who were later available for discussion.

Existing Water System Deficiencies

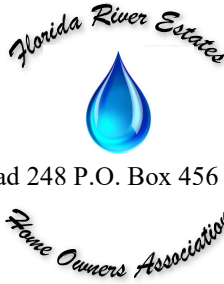
It has been determined by professionals in the water business that our current system has exceeded its useful life, including three water operators, Colorado Rural Water representatives, and Goff Engineering.

Florida River Estates was issued a letter from the Colorado Department of Public Health & Environment (CDPHE) on February 7th, 2017. The letter was for Significant Deficiencies within our water system. Significant Deficiencies means *“any situation, practice, or condition in a public water system with respect to design, operation, maintenance, or administration, that the state determines may result in or have potential to result in production of finished drinking water that poses an unacceptable risk to health and welfare of the public served by the water system”*. The Significant Deficiencies listed by CDPHE included: high leakage rates, unaccounted water, needed valve inspection and exercising program, and no isolation valve between the water treatment plant and the storage tank.

The HOA Board responded to CDPHE indicating we would pursue the following measures:

- Have Goff Engineering prepare a Preliminary Engineering Report (completed Fall 2018)
- Develop a new rate structure where portions of the water bill go into our Capital Improvement Account (completed June 2016)
- Apply for grants and/or explore funding through the USDA (in progress)

¹ The required percentage to approve the proposed action is greater than the amount required to have a quorum at a membership meeting



175 Countv Road 248 P.O. Box 456 Durango. CO 81302

- Locate and repair as many leaks as we are able to find (completed through 2017/2018, including the most recent in March 2019)

Proposed Loan Information

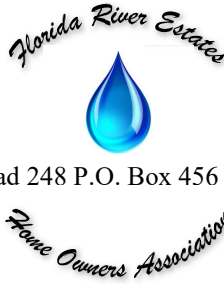
The loan process would include the HOA applying to the United States Department of Agriculture (USDA) for a loan through the USDA Rural Utilities Water and Sewer Services program. The HOA would seek loan approval through this process while also seeking a short-term construction loan from the Bank of the San Juans (BSJ) for the construction portion of the project. The BSJ construction loan would be conditioned on the approval of the USDA loan. The USDA loan is a long-term loan and would pay off the Bank of the San Juans construction loan once construction is complete.

The USDA loan would have a term of 40 years with a fixed rate for the full 40 years. Their rate is an exceptionally low rate for a loan of this duration. Assuming the 40-year term, 4.00% rate and \$2,000,000 in loan principal, the USDA payments would be \$8,358.77/month. If we were to experience a rate increase to 4.50% prior to loan closure, the payment would increase to around \$8,991.26/month. These are principal and interest payments that are reflected in the budget.

The BSJ construction loan would be a short-term draw down note (non-revolving line of credit). Advances would be reviewed and accepted through the USDA, at which point BSJ would deposit the funds into a Florida River Estates construction checking account held at BSJ. Contractors and suppliers for this project would be paid by the HOA through this construction checking account with checks signed by Board designated individuals, most likely the Board's Treasurer and/or President. Both BSJ and the USDA would have strict oversight regarding the use of the loan and the construction project. Loan payments on the BSJ loan would be interest only monthly payments based on the outstanding balance of the construction loan. Naturally, payments will be lower at the beginning of the project and be larger towards the end as the balance on the loan grows. Our rate would be tied to prime with a variable between 1.00% & 1.50%. Prime is currently at 5.5% which would result in a rate between 6.5% & 7.0%.

Capital Account Fee – Ballot Item

All members of the HOA currently pay a Capital Account Fee; however, this fee will need to be increased to pay back the loans. The Capital Account Fee to service the debt will be serviced equally by the owners of 105 tapped or ready to serve properties within the HOA. There is an option within the proposed amendment for a person who owns property that does not have water



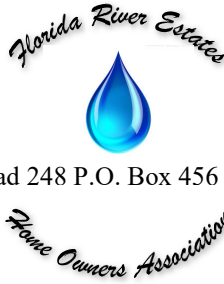
175 Countv Road 248 P.O. Box 456 Durango. CO 81302

service to forfeit their right to future water service. If not forfeited, a homeowner will pay an amount not to exceed an additional \$85 per month per lot owned for the Capital Account Fee.

Amendments to the Declaration – Ballot Item

The ballot also proposes amendments to the Declaration of Florida River Estates Homeowners' Association, Inc. Regarding Water Regulations (Declaration) in conjunction with the increase to the Capital Account Fee. Changes to the Declaration are necessary in order to comply with current Colorado laws, satisfy lenders, and protect the HOA and its members from potential legal liability. It is also necessary in order to move forward with the water project because the current Declaration does not adequately address specific areas, such as increases to the Capital Account Fee and voting rights of the members. The proposed amendment to the Declaration, as well as the full Declaration, is posted on the HOA's webpage, but some of the general concepts addressed are as follow:

- Several definitions needed to be amended. The Declaration was adopted in 1993 and many of the definitions were specific to the original transfer of the water system to the HOA and need to be changed to address the current proposal and to provide consistency with current Colorado law.
- A clear definition of the allocation of interests within the HOA needs to be provided. The proposed allocation is to allow for one vote for each lot, rather than one vote for each owner regardless of the number of lots owned. It also proposes to have the owner of each lot with a tap to share the service fee expenses equally. An owner of a vacant lot will not pay a service fee, but will continue to pay a capital account fee at a rate that is equal to all property owners that have existing water service. Water consumption fees will still vary based on each member's actual usage.
- If a person does not intend to ever purchase a tap, then the person can quitclaim his/her interest in a tap. There will then be no future fees charged to the owner, but the HOA will have no obligation to sell them a tap in the future. If the HOA does decide to sell a tap, the acting Board at that time can take into consideration all past capital account fees, as well as other factors, when determining the price of the tap.



175 Countv Road 248 P.O. Box 456 Durango. CO 81302

- The proposed amendment clarifies that fees and charges are a continuing lien on each member's property. This is important to lenders and protects the HOA and its members from a default in payment by an individual owner.
- The Board's requirements when adopting an annual budget need to be formalized. The proposal requires the Board to provide certain notices to the members when adopting its annual budget. This is consistent with requirements of Colorado law.
- The Declaration is sparse regarding matters relating to the governing of the HOA. The proposed amendment clarifies the role of the HOA, including its Board and members. The HOA's bylaws will need to be modified in the future to reflect these requirements.

Again, the intent of the proposed amendment to the Declaration is to allow for the water project to move forward, obtain compliance with Colorado law, and protect the HOA and its members from potential legal liability.

Summary

The choice to do nothing is no longer acceptable. The HOA is in the spotlight of CDPHE and if we do not make changes, CDPHE will instruct us to make changes under their oversight. Interest rates will likely rise and the cost of the project will continue to increase. It is the Florida River Estates Board's responsibility to provide safe and sustainable drinking water. The Board does not want to allow water loss to increase or ignore the current deficiencies resulting from the age of the water system, which have a high potential for adverse short-term and long-term impacts on the HOA and its members. We invite all members to review the proposed amendment and all related documentation on the HOA's webpage. <http://www.frehoa.com/2019-ballot-documents.html>

We will be holding the **Annual Meeting on Saturday, April 27th at 10:00AM at the First United Methodist Church at 2917 Aspen Drive** for the primary intent of answering ballot questions, receiving ballots, going over questions pertaining to the budget and allowing for general discussion amongst neighbors with regard to the proposed changes. We will be prepared to present supporting documentation for discussion, but the format will be largely open floor.

Sincerely,
The Florida River Estates Board of Directors