

Summary of the RVR Irrigation System Presentation

July 28, 2007

9:30 am

Attending on behalf of River Valley Ranch Golf Club: Dave Fairman, President of Crown Golf Properties; Joe Gilmore, Vice President and Controller of Crown Golf Properties; Zach Ray, General Manager of River Valley Ranch Golf Club.

The Parties

The Parties involved are the River Valley Ranch Master Association (Association), Crystal River Limited Partnership (Developer), River Valley Ranch Golf (Golf Owner) consisting of Crystal River Limited Partnership and Crown Golf Properties, L.P.

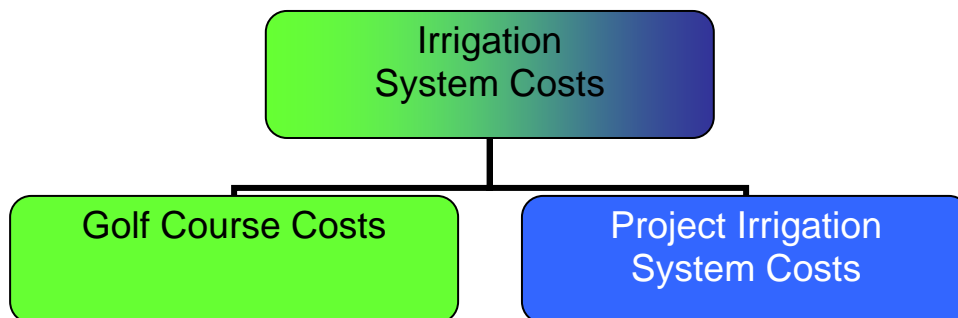
Incorrect information has been distributed by email and word of mouth to the residents of River Valley Ranch concerning the nature of the business relationship between the parties. One of the purposes of the presentation is to establish the facts and the rights established in the controlling documents.

The Agreements

There are two basic agreements that control the relationship of the parties: 1) the Water Rights Operating Agreement by and between the Town of Carbondale and the Developer (1996 Agreement), and 2) the Water Delivery, Management and Maintenance Agreement by and between the Developer, Association, and Golf Owner.

The Costs

The 1997 Agreement sets forth the cost sharing relationship between the parties, whereby the costs associated with "Irrigation System" are shared between the Golf Owner and the Association. The Irrigation System includes the cost of operating and maintaining the irrigation ditches, pumps, pipes, valves, etc that are shared by both the Golf Owner, the Association and the individual customers. It also identifies the costs associated with the "Project Irrigation System" which include the costs for irrigation of the common areas and the individual homeowner's lots.



The 1996 and 1997 agreements also identify the manner in which these costs are to be recovered from the Association and customers:

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- Charge for Untreated Water Delivery.
“It is understood that these *rates* are to be set in order for (Golf Owner) to be able to recover *to the extent possible* under the rate structure the actual costs of delivering untreated water for irrigation.” (1996 Agreement, emphasis added)

The Rates

The 1997 Agreement establishes two separate components of the rate to be charged. One rate for the *Irrigation System*:

- Section 3.a: “A portion of the rates charged by Golf Owner shall be based upon each customer’s prorata share of the costs associated with the delivery of raw water including, without limitation: actual costs for the operation and Maintenance of the *Irrigation System and Irrigation Ditches* (such as costs for electricity, parts, equipment, labor associated with such operation and Maintenance), taxes or other such charges appropriately levied, costs of the administration and management of the Irrigation System”.
- Section 3.b: “A portion of the rates charged by Golf Owner shall be based upon each customer’s prorata share of the costs associated with the delivery of raw water including, without limitation: actual costs for the operation and Maintenance of the *Project Irrigation System* and Irrigation Ditches (such as costs for electricity, parts, equipment, labor associated with such operation and Maintenance), taxes or other such charges appropriately levied, costs of the administration and management of the *Project Irrigation System* and the costs associated with irrigation of the Town Parks”.

The Business Setting

The 1997 Agreement establishes the business setting in which these agreements are to be administered:

- 3. Charge for Raw Water Delivery: “The rates charged shall be based upon *criteria customarily used for calculating all of the costs* associated with the diversion, distribution, and delivery of Raw Water for irrigation, provided, however that in no case shall such rates exceed eighty percent of the rates billed by the Town for potable water service within the Town.”

The Golf Owner relies on the American Water Works Association (AWWA) (<http://www.awwa.org/>) for guidance on the reasonable and customary standard. The AWWA is an international nonprofit scientific and educational society dedicated to the improvement of water quality and supply. Founded in 1881, AWWA is the largest organization of water supply professionals in the world. Its more than 60,000 members represent the full spectrum of the water community: treatment plant operators and

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managers, scientists, environmentalists, manufacturers, academicians, regulators, and others who hold genuine interest in water supply and public health. Membership includes more than 4,700 utilities that supply water to roughly 180 million people in North America.

Summary of Other Key Elements of the Agreements

- There is no requirement for Association agreement or approval of rates.
- The rates are subject to the Town's review and input.
- The Golf Owner must provide information sufficient to support the rates charged.
- The Golf Owner must keep 5 years of complete records for auditing.
- The Association can cause an audit at its expense.

How We Got Here

In 2006 Golf Owner revised several elements of the water billing system at the direction of the RVRMA. The bills that were produced were substantially higher than in prior years. An email was circulated urging residents not to pay their bills.

-----Original Message-----

From: Sue Santos [mailto:sue_santos@rvrcommunity.com]

Sent: Thursday, January 26, 2006 2:53 PM

To: Perun, Justin; gbinder@crowngolf.com

Cc: dfairman@crowngolf.com; Bob Daniel; Chris Bernard; diane schlough; dick sundeem; Donna Grauer; kkelley@██████████

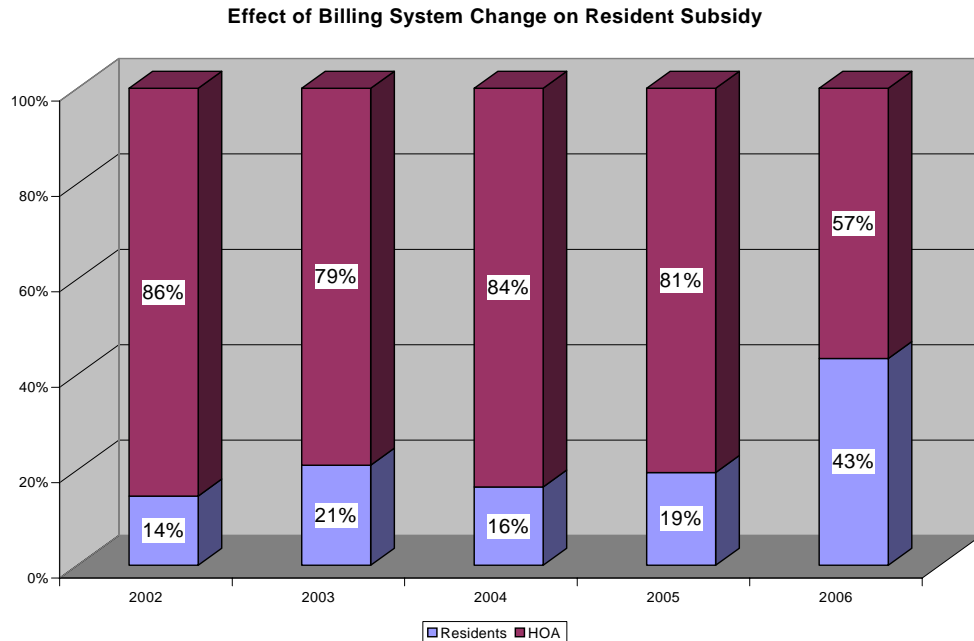
Subject: RVR Water Issues

To recap, the RVRMA would like RVR Water to:

- “Past - Credit the RVRMA for \$45,460.05 for payments made since 2002, for watering Town Parks;“
Golf Owner Comment: This has been agreed to.
- “Today - ensure that the RVR Water distribution system has required maintenance being performed on it (as listed on September 23 memo) per manufacturer specs and that future maintenance and daily responsibility for system is accurately accounted for in RVR Water personnel job description.“
Golf Owner Comment: This has been accomplished, but not without a corresponding increase in cost.
- “Future - Methodology. The RVRMA has presented a new methodology to the RVR Water department. The RVRMA would like RVR Water to perform a test run of new methodology and bring it back to the Executive Board for review. This new methodology provides a more accurate distribution to all

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end users and alleviates the burden on the RVRMA to subsidize homeowner's water bills.”



Golf Owner Comment: By changing to the new billing system the amount of RVRMA subsidy was reduced and homeowner's bills on average doubled.

The 2006 billing system as recommended by the RVRMA was based on a key metric referred to as the amount “pervious surface.” This metric was originally thought to be widely available for each occupied lot in the development. This proved not to be the case. The pervious surface for many lots had to be estimated based on neighboring properties.

2007 Billing

In 2007 the Golf Owner has redesigned the billing system again. This year, each lot owner's prorata share will be based on the actual area of his/her lot as available on the Garfield County Assessor's website. To find one's lot size, browse to the Garfield County website and then the Assessor's page: <http://www.garcoact.com/assessor/>. Click on the button to enter the Assessor/Treasurer Property Search page and enter the account number, address or other available tab for the property.

(Note: Because the billing system requires that the costs be split between the areas of individual lot owners and those common areas, the Golf Owner after the presentation has obtained a CAD plot from the Project Engineer identifying the square footage of the common areas which are not available on the County website.)

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Office Hours 8:00am to 5:00pm (M - F)

Clerk & Recorder Reception Search

This selection displays information on all recorded documents.

Assessor/Treasurer Property Search

2007 Rates

The rates for 2007 have been calculated based on the actual costs experience in 2006 and pursuant to the terms of the agreements.

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		<u>Town</u>	<u>RVR 2007</u>	<u>% of Town Rate</u>
Base Rate		\$15.40	\$12.00	78%
	Gallons			
plus	0 to 6,000	1.43	1.14	80%
plus	6001 to 15,000	1.96	1.56	80%
plus	15,001 to 40,000	2.48	1.80	73%
plus	> 40,000	2.99	2.00	67%

Base Rate is charged for each equivalent dwelling unit
Tiered Rates are charged per unit of 1,000 gallons

The Golf Owner will begin sending the 2007 irrigation bills within the next two weeks.

Questions from Those in Attendance

1. What were the expenses from 2004 – 2007
 - a) DF explained annual increases and expectation that large jumps in the future will not occur given preventative maintenance and current status of equipment

2. How does golf vs. community water usage breakdown?
 - a) DF: roughly 50/50

3. The 1997 agreement allows for inclusion of “actual direct costs” only, how can Crown include other items in the rate calculation?
 - a) DF: the language does not state “actual direct costs”, it states: Page 7, Section 3a.
 “A portion of the rates charged by Golf Owner shall be based upon each customer’s prorate share of the costs associated with the delivery of raw water including, without limitation: actual costs for the operation and Maintenance of the Irrigation System and Irrigation Ditches (such as costs for electricity, parts, equipment, labor associated with such operation and Maintenance), taxes or other such charges appropriately levied, costs of the administration and management of the Irrigation System and Irrigation Ditches”
 Our rates are consistent with this agreement and have been provided to the board.

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4. Why doesn't golf course share the cost of maintaining the clay valves?
 - a) DF: because the clay valves exist in the system strictly for the benefit of the residential water (Project Irrigation System). Clay valves reduce pressure from course to community.
5. How many of the "new" clay valves have been installed to date?
 - a) DF: not sure, will follow-up with Steve E.
6. Is the "total system demand" (in 2007 rate calc) for Golf and Community?
 - a) DF: yes
7. Town is providing potable water vs. irrigation water at RVR. Should the rates be remotely close given this fact?
 - a) DF: yes, RVR rates are reasonable. The town has a larger base of customers over which to spread fixed costs. All other things being equal the rates are likely to decrease as more customers (residents) come on line.
8. Can the system controllers be set such that water usage (to residents) be shut off during periods of rain?
 - a) DF: not without infrastructure (\$\$) changes.
9. How does a tiered rate work when individual residents are not metered? (why not a flat rate?)
 - a) DF: not opposed to a flat rate model. We have tried numerous methodology iterations over the past 18 months (during which time Crown incurred expenses, and customers were unbilled) and our current model is the one we intend to use for 2006/2007 billing. If the board would like to pursue a flat rate model beyond 2007 we are open to considering it.
 - b) DF: will check with City attorney when he returns from ailment to get thoughts on a flat rate model.
10. Are you planning to use "zones" going forward?
 - a) See #9 above. Flat rate a good suggestion worth considering beyond 2007.
11. Can we get a simple schematic of what the golf course vs. the project irrigation owns? It may help residents visualize the expense split.
 - a) DF: Yes, we will plan to provide on the RVR Water webpage when available.
12. What is Hines relationship to Golf Course and RVR?

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- a) DF: Crown and Hines are 50/50 partners in the golf course. Crown has never had a position in the real estate. The golf owners (partners) own the water department.
13. Are there capital reserves adequate to address future issues/aging?
- a) DF: There are reserves (roughly \$120k) but we need to update the reserve study to determine if they are adequate. Current priority is to bill out for usage. Last year we added a fixed charge (+/- \$3.00) and a variable charge (+/- \$0.20). We need to revisit this issue and confirm the reserves are sufficient.
14. Have capital items crept into repair expense?
- a) DF: We have provided the capital reserve detail to the board and need to revisit the adequacy of the reserves as noted in #13.
15. What happens (re: water system repairs) on weekends when Rich is gone?
- a) DF: We are in the process of setting a standard protocol for responsiveness to issues regardless of the day of the week. Significant issues are addressed by Steve E. or Rich whenever they may occur.
16. Does Rich have a team to rely on (do we have too much reliance on one man)?
- a) DF: not comfortable with current reliance on Rich (lone wolf co.). We will inquire as to the existence or necessity of back-up in the event of his absence.
17. The response time is too slow on broken lines.
- a) DF: we need to establish a system of reporting and tracking issues. Perhaps via website or email.
18. Why can't you meter every house?
- a) DF: we can however the homeowners would have to bear the cost of the meters. (to this many residents voiced opinion that the up front cost of the meters for all would not justify the minimal usage savings for the few).

COMMENTS

1. The bills were wrong in 2006, it wasn't reasonable to expect that the residents pay them.
2. As homeowners we should work through the board and committees to escalate issues and not go directly to Crown Golf.
3. Resolving this is a mutually beneficial issue -- as a community we need to preserve our water rights.

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4. Thanks. This is an arranged marriage of sorts and it is in everyone's best interest to resolve it in order to free up time for Crown to focus on the golf course (community asset) and the RVRMA Board to focus on other more pressing issues.
5. Steve Falwell statement:
 - a. Board requested additional detail from CGP in closed meeting on 7/27
 - b. Looking into facilitated meeting to address "interpretive" issues
 - c. Facilitated meeting would be non binding and may or may not accomplish anything
 - d. Some info from Crown (re: rate calc detail) is confidential/proprietary and cannot be shared
 - e. Board plans to meet with some homeowners to obtain input for facilitated meeting
 - f. It has been a long road and it's time to get it resolved
 - g. As a company Crown is out 2 years of billing and we owe them money as they have provided water, the community is well irrigated and we all have "nice yards"
 - h. There have been very few down times in the system this year (maintenance has improved)
 - i. We are closer than ever before to an agreement between CGP and RVRMA
 - j. Bottom line is we won't be able to please everyone
6. To summarize Crown plans to provide additional detail to Board as requested. Also plans to calculate and bill out for 2006 and 2007 water usage (based on current methodology). Crown will work with the board to identify improvements and/or billing methodology adjustments for usage beyond 2007.