



**Minutes of Special Meeting King's Deer HOA  
March 13, 2007**

- I. Allen Alchian, president of the King's Deer Board of Directors, called this Special Meeting of the membership to order at 7:00 PM.** He stated that a quorum is needed to conduct business. A quorum is established once we have registered owners, either in person or by proxy, of at least 160 properties. At this time a quorum has not been registered, but members are still registering. The Credentials Committee Chairperson will report to the membership as soon as we have achieved registration by owners of at least 160 properties, or when all members wanting to register, have registered.
- II. Alchian introduced Board members and guests.**
1. Rich Paul (Vice-President and Architectural Control Committee Chairman), Steve Balog (Board Secretary), Mary Fortey (Treasurer) James Ramsey (Common Area Maintenance director), Dan Potter (director), Patricia Wasson (Executive Director), MaryAnne Tebedo (Parliamentarian), and Jack Scheuerman (HOA attorney) from the Colorado Springs law firm Alpern, Myers, Stuart, Scheuerman and Hickey.
  2. Alchian introduced Tri-Lakes United Method Church Pastor Bob Leevs and Board of Trustee Chairman John Crouse. He thanked both for allowing us to use the facility. Alchian also announced that they unexpectedly made the church available to King's Deer at no charge. Alchian then invited Pastor Bob to lead us into the meeting with an invocation.
- III. Alchian announced the appointments for the committees supporting this meeting.**
1. Credentials Committee: Jan Sievert (Chairperson), Diane Boggs, Gina Pasquale, Mary LaPorta, Corinne Solano, Dixie Schull, Jack Merle.
  2. Teller Committee: Tom Van Camp (Chairperson), James Van Camp, Corinne Solano, Carol Hatstrup, Brad Rhodes.
  3. Rules Committee: Rich Paul.
- IV. Credentials Committee Report.**
1. Jan Sievert, Credentials Committee chairperson, reported that 212 members in good standing and eligible to vote have been registered as of 7:15 PM. Registration will stay open until 7:30 PM.
  2. A motion was made and seconded adopting the Credentials Committee report. Passed. Alchian announced the official business of the meeting will now proceed.
- V. Rules Committee.**
1. Rich Paul, Rules Committee chairperson, presented and discussed each of the rules proposed to apply to this special meeting. Each rule was opened for discussion as it was presented.  
*Rule 1. The rules shall be adopted by 2/3 affirmation of the members present. No discussion.*  
*Rule 2. Robert's Rules of Order Newly Revised shall govern the meeting in all cases in which they are not in conflict with the Association Bylaws, other Association governing documents, or governing Colorado Revised Statutes.*
    1. Gary Myers (19155 Royal Troon): If there is a complex question can someone discuss the conflict.
    2. Alchian replied that MaryAnne Tebedo, professional parliamentarian, was present for that purpose.*Rule 3. Members must stand and be recognized by the Chair before speaking. When recognized, the member must state their name and address before speaking. No discussion.*  
*Rule 4. All remarks must be made through the Chair. No discussion.*

*Rule 5. Members shall not interrupt a speaking member nor otherwise disrupt the meeting. No discussion.*

*Rule 6. It shall not be in order for members to converse with each other during the meeting. It shall not be in order for members to engage in personal attacks on any other member. No discussion.*

*Rule 7. All remarks shall be germane to the question immediately before the assembly. No discussion.*

*Rule 8. No member shall speak more than five minutes.*

1. Steve Boggs(19050 Archers Drive): If a member speaks once for five minutes, may they speak again on the topic in question? Or again during the meeting?
2. Tebedo clarified. According to Roberts Rules of Order a member may speak for up to five minutes to the motion on the floor. After that all other members must be provided an opportunity to speak. Then a member may speak again to the motion. The five minute limit is not a limit that applies for a member's cumulative time for speaking throughout the entire meeting.

*Rule 9. The Parliamentarian shall be allowed to assist the Teller Committee.*

1. Steve Boggs (19050 Archers Drive): We have a very qualified group of volunteers and I feel that the HOA does not need the assistance of a parliamentarian. Therefore I move to reject Rule 9. Seconded.
2. Fred Fortey (19421 Royal Troon): If the parliamentarian does not assist the Teller Committee what will be the procedure if there is a question about a ballot count?
3. Tebedo: Roberts Rules of Order take precedence to answer any kind of opinion at any time during the process.
4. Alchian directed a voice vote on the motion to reject Rule 9. The voice vote was not conclusive so Alchian directed the votes be polled by voter number. Tom Van Camp (Teller Chairperson) then polled each voter number. During the poll of voters, a substantial number of voters, in sequence, were not responding. Before the pole of voters was completed Alchian suspended the count on a point of order by the Credentials Chairperson, Jan Sievert. Sievert stated that a count of the registered members on the registration sign-in sheets, and the number of ballots issued were not identical. Alchian called the meeting into recess in order to investigate the problem.
5. Alchian called the meeting back to order and directed a report from the Credentials Committee. Chairperson Sievert stated that there are now owners of 215 properties registered for the meeting. There have been 223 ballots issued. The initial ballots were not counted prior to the start of the meeting. A count at 7:30 PM, line item by line item, indicated that 215 members were registered on the registration sheet but the number of ballots issued were 223. A recount of the sign-in registers and the number of ballots issued was ordered by Alchian, and the meeting was recessed for this process.
6. Alchian called the meeting to order at 8:16 pm and requested a report from the Credentials Committee. Sievert, reported that owners of 217 properties have been confirmed as registering, and that 223 ballots have been issued. A motion to adopt credentials committee report was made and seconded. Motion passed.
7. Alchian stated that there are six excess ballots issued over the number of lots represented at the meeting by registered owners. He proposed that the membership adopt a rule that if a motion normally requires a majority to pass, it shall pass with a majority plus six; and if a motion requires two-thirds to pass, it shall pass by two-thirds plus six. The motion was moved and Fred Fortey seconded. The motion was discussed then put to a vote. The Teller Committee did a count of the votes. The motion passed with 166 in favor, and the rule to require a majority plus six or two-thirds plus six to adopt motions during this meeting was adopted.

8. Tom Van Camp (Teller Chairman) completed the poll of voters on Rule 9. The result was 90 yes votes, 123 no votes, and 2 abstentions. The motion to reject Rule 9 did not carry; therefore Rule 9 is retained.

*Rule 10. The President of the Association shall preserve for 90 days, in a sealed ballot box, the ballots cast in any voting. No Discussion.*

2. Rules Committee Chairman, Paul, moved to adopt the rules as stated. James Van Camp seconded the motion. Alchian reminded the meeting that a 2/3 plus 6 vote count would be required to adopt the rules. A voice vote was inconclusive; therefore Alchian directed a standing vote count by the Teller Committee. Teller Committee Chair, Tom Van Camp, and committee members counted a standing vote. The vote was 166 for the proposed rules which exceeded the 151 votes required (two-thirds plus 6), and therefore the Rules were adopted.

**VI. President's Statement (Agenda Items 2 through 6).**

1. Alchian made the following prepared remarks to the attending membership, directly addressing issues of the petition that led to this meeting:

***Confirmation that the Board of Directors has determined that the attempt to merge the two Declarations of Covenants at the September 20, 2006 meeting did not succeed.***

*The initiative in 2006 to amend and restate the two governing covenants of the King's Deer Highlands Homeowners Association failed. That initiative was commonly referred to as "merging the covenants."*

*Consequently, there has been no change to the covenants that govern the King's Deer Highlands properties. And likewise, there has been no change to the covenants that govern the King's Deer Subdivision properties, which we commonly refer to as King's Deer Classic.*

*During the December 14, 2006 Special Meeting, the Board of Directors had the ballots from the September 20, 2006 Special Meeting publicly shredded to prevent their use in any subsequent attempt to merge the covenants.*

*At that same December 14, 2006 Special Meeting, the Board of Directors unanimously approved a motion by a Board member to officially declare the proposed merger of the King's Deer Classic covenants and the King's Deer Highlands covenants to be null and void. That motion also declared the election results of the September 20, 2006 Special Meeting to be null and void. This action was recorded into the minutes of the Board of Directors meeting of December 18, 2006 and has been posted on our web site.*

*Then, in the February 2007 edition of the King's Deer newsletter—also available on our web site—I wrote into the President's Corner column a statement that the covenants were not changed and the election of September 20, 2006 to combine the covenants was unsuccessful. I added that the Board declared the initiative to be ended and the results of the election were declared null and void.*

*Finally, during the regular meeting of the Board of Directors on February 20, 2007, the Board passed a resolution stating that any and all actions to certify, ratify, approve, validate, or otherwise amend and or restate either covenant as a result of the September 20, 2006 Special Meeting are permanently terminated, and that any and all written and verbal statements by the Board of Directors, or newsletter of the Association, that might have implied the September 20, 2006 vote favored amending and/or restating the covenants are hereby rescinded.*

*That resolution I signed as president of the association and has been recorded in the El Paso County records under the number 207 025 411. Again, that number is 207 025 411. A copy of the recorded document will soon be posted on the King's Deer web site.*

***Statement on whether the Board of Directors has determined to seek independent legal counsel concerning whether the Declarant may participate in amendments to the covenants and whether the Declarant must first disclose any conflicts of interest.***

*The Board of Directors considers every owner of a King's Deer property as having the right to participate in amendments to the covenants. Every owner is authorized by the covenants to cast one vote per lot owned. Every owner has a financial interest of some sort in the outcome of any amendment to the covenants. The Board therefore does not believe the Declarant, nor any other member of the homeowner association, has an obligation to make any disclosure prior to casting a vote on the question of amending the covenants.*

However, regarding the question of a conflict of interest by the Declarant, or any other member of the association, in participating in preparing a proposed amendment to the covenants, the Board considers every participant in the process bound by fundamental ethical standards of conduct, and therefore obligated to disclose any conflict of interest that such proposal may present, including all material information about the potential conflict. The Board would then evaluate the potential conflict and determine if the conflicted member should be recused from the amendment preparation process.

As I stated previously in considerable detail, the 2006 proposed amendment and restatement of the two association covenants was declared by the Board of Directors to be null and void. Therefore, to avoid expending additional association funds on what is now a moot legal question, the Board has not sought independent legal counsel concerning the question of whether the Declarant should have been permitted to participate in the development of that 2006 proposed amendment and restatement of the covenants.

**Clarification on whether the Board of Directors has determined to seek independent legal advice concerning various issues surrounding the vote on the "merged Covenants" at the September 2006 meeting, including legality of the amendment, applicability of CCIOA to special assessments and repeal of special assessments and caps on assessments.**

Once again, because all actions related to the merged covenants have been declared null and void, and terminated by various declarations, resolutions, public statements both written and verbal, the Board has avoided expending additional association funds on seeking any further legal advice on this moot issue.

**Clarification on whether the Board of Directors has determined to seek independent legal advice or other resources to help them effectively govern the association and whether to set up standing committees to address training, ethics, communication and compliance.**

The Board of Directors has obtained independent legal advice, Mr. Jack Scheuerman, who I have already introduced to you. He and his firm are independent of the King's Deer developer and declarant. Mr. Scheuerman has provided the Board with considerable assistance in matters related to governing the association.

The Board of Directors has also obtained the services of professional parliamentarian, Ms. MaryAnne Tebedo, who I also introduced earlier. She has provided considerable assistance to the Board, and particularly to me, in helping me ensure the rights of all members of the Association are protected and not trampled in preparation for, and during this meeting.

The Board has begun investing in training and education for its members in various areas such as ethics, parliamentary procedures, finance, and association management. Both I and our Executive Director, Ms. Pat Wasson, are members of the Community Association Institute, at our own expense I might add. It offers many educational opportunities. I would like to see the association extend that same membership to other directors who would be interested in the CAI education programs.

The Board is in the process of chartering several committees from members of the community who expressed interest in becoming directly involved with making King's Deer a more dynamic and vibrant community. I'm heartened by the initial interest shown in the committees, but unfortunately beyond those who initially signed up for committees during the January 16 Community Meeting, we have had very little follow-on response as a result of our announcement in the February 2007 newsletter. I ask you to encourage your neighbors to become involved.

2. This concluded Alchian's statements to address issues raised in the petition. He added that, in accordance with the petition, the members may address these issues and any others that may be brought to the floor in accordance with the association by-laws and existing covenants.
3. Parliamentarian MaryAnne Tebedo now informed the members that once a member is represented by any person at a meeting, including for the purpose of establishing a quorum, the member is deemed present for quorum purposes throughout the remainder of the meeting and for any adjournment of the meeting, even if the person departs.

## VII. Open Session.

1. Alchian reminded the members that the primary purpose of this meeting is to address the issues in the petition, and then opened the meeting to the members for discussion and motions.

2. James Hazuka (405 Kings Deer Point): At the January meeting I presented to the Board an ethics document. What is the status of the Board adopting ethics standards?
3. Alchian answered that the document had been reviewed, along with ethics standards from other Associations and standards proposed by the Community Associations Institute (CAI). From all of those a *Conflict of Interest Statement* for the King's Deer Board of Directors, and for all King's Deer committee members, has been created. The version for the Board of Directors has been distributed to all board members and signed.
4. Hazuka asked if all Board members signed the document and if the document could be made available for the membership to read. Alchian confirmed they had signed and said the document is available for download on the HOA web site.
5. Chaia Abadi (19875 Upchurch Way) asked the HOA lawyer, Jack Scheuerman, if the declarant can approve plans without including the ACC in the review and approval prior to construction, and if we can eliminate covenants Section 26, RIGHT OF DECLARANT.
6. Jack Scheuerman (HOA attorney) replied that this section could only be eliminated with the approval of the Declarant, as stated in the covenants. If the Declarant does not relinquish these rights, Section 26 cannot be eliminated.
7. Tony Cerato (1290 Castlecombe Lane): I am concerned about the size of the Richmond American Home sign. Is every entry into King's Deer going to have a similar sign posted?
8. Alchian replied that the association sent a letter to the owner of the property, citing a violation of King's Deer covenants. However, the Declarant could grant them a waiver.
9. Cerato reflected that if the Declarant truly has authority over the ACC then letters that threaten fines for something that will be waived are probably moot. Can we get some cooperation from those decision makers about the size of signs?
10. Alchian responded that continuing discussions between the HOA and declarant will include such considerations.
11. John Witsken (19940 Royal Troon): A letter with an attachment was distributed at this meeting. The letter was sent to our HOA attorney signed by Brent Hawker. I am interpreting this to say that Mr. Hawker has given Lennar construction approval without the ACC ruling on those building plans. Is this correct?
12. Alchian stated that he also generally interprets the letter that way.
13. Witsken asked if the HOA attorney has received any further correspondence from the Declarant's attorney relative to involvement of the ACC in any future development on lots currently owned by the Declarants, because there is apparently another letter dated March 12, 2007.
14. Alchian answered that the Board had only received that correspondence immediately prior to this meeting and there has not been time to carefully review it and develop a response. Alchian therefore requested that the members allow the Board to handle the potentially sensitive communication with our lawyer in confidence to develop an HOA position before we begin public debate on the letter and its meaning.
15. Witsken emphasized his concerns about not knowing what is being proposed or waived, and this creates considerable anxiety among the other property owners.
16. Scheuerman responded, underscoring that we have not had time to analyze this latest letter and formulate a response. The Board is equally concerned about this and if there is any legal way to protect association rights or to enforce the covenants and limit the variances granted to owners of these lots we certainly intend to do that.
17. Andy Waclawski (2148 Trentholm): I have served on ACC for 4 years, and I've watched angst in this meeting and previous other meetings, and have spent 20 to 30 hours in these meetings wrestling with issues that are divisive to the community. As an ACC member I don't think I could in good conscience hold builders that have built here for the last 15 years to the standards of the 25 page *Design Standards*, and then have the declarant make a declaration that he is not going to adhere to those standards anymore. I therefore propose to improve the working relationship in the community by moving that Mr. Dan Potter be recalled from the Board of Directors.
18. Alchian ruled the motion out of order because a motion for recalling a board member or altering the covenants requires due notice to all the members before that meeting can act on it.

19. Melinda Zarkovacki (1055 Trumpeters Court) asked how common is it for developers to include in covenants, provisions similar to those in our covenants, paragraph 26, which allow the developer to supersede the authority of the ACC and waive the covenants?
20. Scheuerman replied that he has never seen these provisions before except in the King's Deer covenants; but added that the developer can put anything he wants into covenants, and in this case they clearly wanted to protect themselves.
21. Steve Boggs (19050 Archers Drive): The Bylaws Section 4 paragraph 4 state, "Notwithstanding any provision of the Declaration or Bylaws to the contrary, the owners, by a sixty-seven percent vote of all persons present and entitled to vote at any meeting of the Owners at which a quorum is present, may remove any member of the Board without cause." According to the Bylaws the motion is valid. I therefore second motion of Mr. Waclawski to recall Mr. Potter from the Board of Directors.
- We have here a clear conflict of interest between the Board working and developing a strategy for what the board is going to do in respect to the homes, and we have the board members all told their legal duty is to all of us members to do whatever is best for us. We have a Board member, on the other hand, who is a partner in the Developers who will do what is best for them. You can't serve two masters.
22. Scheuerman: We are aware of both provisions in the Bylaws that deal with the removal of directors: one that requires a specific purpose of the meeting to be stated in the agenda, and the other seeming to indicate that at any meeting of the membership the members can remove a director with the two-thirds vote. The problem with that particular section which you quote is that you cannot amend Declaration provisions with the Bylaws. The Declarations are set in stone and contain the amendment provisions within them. This particular provision of the Bylaws attempts to amend the Declaration because the Declaration, even though it does not specifically deal with this issue, provides the rights of members to vote in all matters that properly come before members for vote. By bringing up an item like this without notice to the members, you have deprived those members who are not represented here, of the right to vote.
- But there is even a better reason for saying that this motion is out of order, and that is the Colorado Revised Nonprofit Corporation Act. It contains a very specific provision concerning removal of directors, and it specifically and clearly says that there has to be notice and the notice has to say the purpose of the meeting is to remove a director, and it trumps these Bylaws provisions. So I do believe the motion is out of order and I do believe that this type of action, for due process reasons, needs to be popularly noticed so everybody can participate in the meeting, not just those interested in the issues that were in the petition.
23. Pam Smith (19773 Kershaw Court) requested clarification on when the developer's rights expire, according to the covenants.
24. Scheuerman explained that there are two declarant rights situations in the covenants. First is a *period of declarant control* which is set out in the covenants, and that is generally the time during which the declarant has the right to appoint members to the Board; that has expired for King's Deer. But there are other rights that the Declarant retains in covenants that go on forever unless the Declaration says specifically that they terminate at a particular point in time. The King's Deer covenants do not provide a termination for these Declarant rights, and therefore these Declarant rights continue until the Declarant relinquishes them.
25. Lenard Rieth (declarant attorney and proxy for 19783 Knights Crossing): To clarify the period of declarant control, the Highlands covenants, Section 1. Definitions, paragraph O. define "Period of Declarant Control" as 12 years from recording the Declaration. The Declaration was recorded in 1997 so it expires 12 years from that year.
26. Carol Hatrup (750 Lancers Court West): I and Corinne Solano are a part of the original owners mentioned in Mr. Rieth's letter that was distributed at this meeting. The only purpose for starting the petition and ultimately leading to this meeting as an afterthought, was to get that merger and amendment taken off. So thank you Allen for doing that and for making that clear. But I think that is what the new attorney, and many of us people who are not legally trained, are confused about.
- There are two separate subdivisions and two different sets of covenants. In the Classic subdivision of 148 homes, the period of Declarant control, even though Mr. Rieth wrote that, is written a little bit different than he wrote for the Highlands covenants written three years later. It doesn't define declarant control, but elsewhere in that covenant it says (and those were filed in '94) they expire, I think, December '97 the only date that appears in there. It also says the declarant has the same rights as he has in Highlands, and it appears to be for December '97. The declarant's appointment and removal power of the board expired when the majority of the lots were sold in Classic, out of that 148. So, as I read the Classic covenants, it looks like he could increase the subdivision to about 400 lots. But that has expired and there are no longer any declarant rights at all in Classic.

Highlands, a separate subdivision with separate covenants, was filed in '97. In fact the last filing for Classic was renamed and became filing one for Highlands that is why the mailbox issue is weird on Kershaw. So if you look at the '97 covenants filed for Highlands it has different provisions: it specifically defines the period of declarant control as through 12 years, which is December 2009. So the declarant can do all this, the tract homes and all the other stuff, which Section 26 says, in the Highlands covenants. He can put up the sales office, and other activities. I don't think he can do it in Classic. I would defer to our new attorney to advise on that.

But where that gets to in terms of covenants enforcement, is that you still have two sets of covenants and those two HOA corporations which both have their own sets of bylaws and their own sets of articles of incorporation. The Classic Articles of Incorporation says that when a majority of lots are sold the declarant has lost his rights to appoint board members. In Highlands you have to look not only at the covenants but at the Articles of Incorporation which also have very specific provisions about 75% of the lots and only a majority of the people.

Looking at November '03 meeting when the corporations were merged by the two boards and then Mr. Potter and others were voted on and now we have one combined board. They never actually got around to filing a new set of articles of incorporation or new set of signed bylaws. We've been trying to get those; the only ones on the website are not signed.

Since we are CCIOA exempt, the CCIOA restriction on notice for recall of director would not apply. And going back to the language that Mr. Boggs quoted, it is very clear that either covenant community can bring up the issue of recalling any director at any meeting and should be able to do so.

I think the tract homes and all these other issues the developer and the attorney and board members need to be very cognizant that we are two separate subdivisions although we share the same corporate board. I don't believe that the declarant/developer could put that same Lennar trailer or any of those other things on a Classic lot.

27. Dan Potter (Declarant) requested a waiver on the 5 minute time limit to answer several questions and present some slides. The presentation should take about ten minutes. Alchian granted the waiver having not received objection from the membership.

28. Potter: I hope to answer several questions in advance. First of all we do have an understanding of Carol's argument. I do not know for sure, but I do not believe we have any rights to any lots in Classic, nor do we want to own any lots in Classic.

I am going to make a statement regarding custom homes being built by Lennar in King's Deer; the same principles apply to the Richmond-purchased lots. The reason that I am reading a written statement is because of the veiled threats of litigation. Lenard Rieth will be responding to any questions.

The homes for Lennar and Richmond have not previously been built in the Colorado Springs market; they are new to this area. They state the homes to be at the \$600,000 to \$900,000 plus range, depending on finished square footage. They are very compatible with current homes in King's Deer. And in many cases will be an improvement over existing homes. For example, of the first two homes Lennar is building in King's Deer, one is in complete compliance with all of the covenants, and the other is also in compliance with the exception that the square footage on the main level is 13 square feet short and instead of having metal railings on the deck, there will be cedar railings. The minor exceptions that we are granting are not any different from exceptions that have been granted already in King's Deer.

Here are photographs of homes in King's Deer. [Photographs projected onto a screen.] These were taken of the entire community about a year ago. I have just shown you 15 existing homes in King's Deer and five built by Lennar in another rural subdivision elsewhere. The photographs of Lennar homes that were displayed are similar to what they will build here, but with custom design features. As you clearly saw from the slides the Lennar homes are very compatible with the existing homes in King's Deer and in some cases a marked improvement.

We had similar concerns voiced by many residents when Saddletree and Symphony Homes built a model home in King's Deer and yet there have been no negative consequences or decrease in property values due to their building in King's Deer.

We have had five Parade of Homes in King's Deer. We set an attendance record that still stands today. One year a particular home won Best of Parade. That home has been built numerous times in several subdivisions yet it is still a "custom" home. We have another home that has been built five times in King's Deer in fact—in violation of the covenants. Yet I doubt that there are many residents who have even noticed this because of the variations of colors, certain finishes and other site changes. I know there are at least two other homes that have been built more than once in the subdivision.

There has been much unwanted hysteria about the arrival of Lennar and Richmond to King's Deer. Even after our sales are finalized to Lennar and Richmond we, the developers, still own millions of dollars worth of lots in King's Deer. We would never jeopardize the value of our assets by approving any home that we did not believe would be comparable to the community.

One of the aspects that helps to create value is demand; national builders Lennar and Richmond will be spending tens of thousands of dollars on advertising. This increased advertising will bring many new buyers into King's Deer which in turn will only help existing builders and homeowners wishing to sell

their homes in the subdivision. In the long run this will do more to enhance value than anything else we've done since we helped build the golf course in previous years.

King's Deer has been planned as a highly desirable community of beautiful homes and strong values. All of that however, is currently being threatened. But the threat is not from Lennar and Richmond; it is a small group of individuals with their own agendas that threaten our property values. Many of us have heard realtors inquiring about the quote, "Trouble in King's Deer," and how they are reluctant to show homes here. One builder in King's Deer called to tell me personally of an experience with a potential buyer of his spec home. The purchaser spent about two hours in the home, the realtor took the builder aside and said, "This home is their favorite," and he would probably have an offer that afternoon. Then the prospective buyer indicated that he had heard of the unrest within the community regarding the HOA. The builder answered honestly that there were problems but in his opinion it was overblown. The buyer nodded, they left the home never to return again.

It is time to end this divisive negative criticism. Every resident has a right to question the board as to why they approve and/or disapprove any action. But to call to question the ethics of the board or individual members of the board is completely irresponsible. There have been no thefts of board funds. There are and have been no financial misdeeds. There have been decisions made by this board in which there was not always total agreement, but all decisions were made by the majority of the board members. And neither this board nor past boards have served as puppets of the developer, except, I guess in the beginning, when Paul, Brent and I were the only board members.

Every member who has served on the board and is a member of this audience has had nothing but the best interest of our community in mind with every decision that has ever been made. Hindsight is 20/20 and it is always easy to second guess a decade-old decision. But the danger to our property values are the people propagating ridiculous conspiracy theories, calling local newspapers to report on the division within the community, and wasting tens of thousands of dollars of the HOA money on legal and other professional fees. For example, the latest election is being challenged because a small group did not like the results and has sought to inflame the residents against the board.

Because of the divisiveness this small group has caused in this community, my partners and I have decided to exercise our rights as declarants, under the covenants which we drafted, and which you accepted when you purchased your lot or home in King's Deer. When we purchased the 1,800 acres for King's Deer we wrote the covenants and granted ourselves additional privileges that purchasers of individual lots do not enjoy. This is common practice in our industry. In fact we modeled the King's Deer covenants after Bent Tree, which is a pretty upscale subdivision. So we preserved for ourselves the right to approve the design of all plans on the lots owned by me and my partners, and any lots which are being or have been sold to Lennar and Richmond. We have asked our attorney Lenard Rioth to speak about this action and to answer any questions related thereto.

Tonight I have also handed out a financial report regarding the landscaping at the entrances. There is one letter I didn't get into the packet, and you can ask for it on your way out tonight. It clearly illustrates that over \$340,000 has been spent by the developer on the common areas of the subdivision, meaning the entrances to King's Deer. And \$225,000 was spent on the 2005 improvements alone. When we decided to start the landscaping, we determined, as the developers, that we would work on only the Roller Coaster and the Archers entrances. Although at that time, in 2004, I had a landscape architect draft plans for all the entrances. As we went through the budget we just could not do all of it, so we went to the HOA board and asked if they would like to participate so we could also landscape Kershaw and Royal Troon at County Line. The board agreed; Mary Fortey and I abstained from the vote, yet the motion passed and the minutes of that meeting record that fact. In addition there is a letter from my chief financial officer certifying the expenses. Hopefully this will end the landscape conspiracy theory. [A letter from the landscape architect is projected onto the screen and is read aloud to the audience by Brent Hawker. It details the scope, design, timing and projected cost of the project.] Presented here [projected on screen] are the costs associated with that initiative. We originally projected a \$150,000 project to which the HOA contributed \$65,000. The project expenses ultimately exceeded \$225,000 yet the HOA's contribution remained at the agreed \$65,000. Hopefully this information will put to rest the question by some members of the landscaping project in 2005.

I am confident that the Lennar issue will not go away but I also recognize that these homes will, in many cases, exceed what is built here already. With a price range of \$700,000 to \$900,000 they exceed the value of a lot of resale homes currently listed in King's Deer. I now ask Lenard Rioth to entertain your questions.

29. Rioth (identified himself as the developers' attorney): There are three legal issues that I have been asked to speak to: What is the legal authority of the declarant to undertake architectural review of the Lennar homes in Highlands? Why not use the association's Architectural Control Committee? Are Lennar's homes custom homes under the covenants?

A. *What is the legal authority of the declarant to undertake architectural review of the Lennar homes in Highlands?*

The authority is in paragraph 26 of the Highlands covenants, which includes a number of rights that the declarant reserved when this project was created in 1997. I can remember coming to all your annual meetings and telling each and every person, "Read your covenants." And we've made a definite effort to make certain that the homeowners, when they bought their lots, were aware that there were recorded covenants; recorded in the real estate records. Real estate laws require you be given the covenants before you buy. They are something you need to read. And as Dan Potter said, those covenants are typical of developer covenants in these rural subdivisions in this area.

Why do developers want to retain architectural control? Because they want to preserve the values in the community. They want to make certain that the community has high standards. What we are doing in Highlands is exactly what was done in Classic. I think all those homes in Classic, as far as I know, were approved under the declarant architectural review provisions. We are not abolishing the covenants; we are not waiving them; we are not terminating them. What we are doing is exercising the declarant's legal rights which is admitted by even the ad hoc group: the legal right to undertake the architectural review on these Lennar-purchased lots, to ensure that they meet the quality that we think is compatible with the community. Just like we did in Classic; just like we did through the five Parade of Homes. The legal rights are set forth in the recorded covenants. People ask, "How can we trust you to do that?" You have the past fifteen years or so in Classic and now in Highlands where the declarant has been actively involved in keeping up the property values.

B. *Why not use the Architectural Control Committee of the Association?*

The problem with this is it is a lose, lose for the Architectural Control Committee and your association. On the one hand we have the ad hoc group demanding certain things be done by the ACC; by your volunteers. They may feel pressured to set certain higher standards, unique for Lennar. They may impose certain requirements on Lennar that the covenants may not require. The ACC volunteers may feel under threat to lawsuits if the Lennar homes are approved. On the other hand if the ACC does not approve the plans, Lennar and the developer will be upset and the ACC may feel at risk from that direction. So to avoid this consumed conflict within your association, and to avoid the possibility of threats and all the disputes, we will proceed with the same process we used in Classic: using the declarant rights, we will review the plans and notify the association of the decisions.

C. *Are these Lennar homes custom homes?*

We wrote the covenants, including that phrase. We've reviewed, as I said, probably two or three hundred plans. In our estimation these are good examples of custom homes, compatible with Highlands. They are homes that will be attractive and a benefit to the community. We have cooperated, and we would cooperate with the board, cooperate with the ACC, and cooperate with the homeowners. We have millions of dollars at stake in the remaining lots. So it makes no sense to have these divisive meetings and to have all the bad publicity that seems to be going with all these false statements.

30. Chaia Abadi (19875 Upchurch Way) Would you be willing to submit the plans to an outsider to rule on them as custom homes?
31. Rioth: We were the determining factor on Kings Deer Classic and Highlands for the last 15 years. If we choose an expert would everyone accept it?
32. Abadi: I would. You have different interests than the homeowners.
33. Rioth: If that would satisfy you we would certainly consider it.
34. Dixie Schull (2148 Trentholm) directed questions to the HOA attorney: Are all three partners considered the "declarant"? As I understand, the Declarant is King's Deer Development. Yet, it does not own any property in Highlands at this time. The lots being sold are owned individually by Brent Hawker, Paul Thompson, Dan Potter, or one of their many companies or trusts. So, why do they have the right to invoke the provisions of covenant Section 26 and waive covenants when they are not the declarant?
35. Scheuerman: You may be right that the declarant does not own lots in Highlands. But King's Deer Development LLC still exists and therefore still retains the rights to waive certain provisions of the covenants. So, if someone comes to King's Deer Development wanting a certain deviation from the covenants, the King's Deer Development certainly has a right to grant that waiver. The Brent Hawker Company has a right to sell their lot to anyone they choose, whether it is a builder or a homeowner; that is a separate issue from what the declarant's rights are. It makes it more difficult where there are a lot of different companies involved, but the declarant—King's Deer Development LLC—still exists and therefore retains the rights and can exercise the rights of the declarant.

36. Schull: As far as the divisiveness within the community I think it would be to everyone's benefit if Mr. Potter would voluntarily resign. If not I think what is going to happen is another special meeting will be called to address that.
37. Potter: I would be willing to resign under a couple of conditions. I would be able to be involved in the board decision as to who my replacement would be as well as who would fill the existing vacancy. Also, the KDPG, or whatever they are calling themselves, represented by Carol Hatstrup, would sign a settlement agreement in which all of these lawsuit threats go away. But I am not going to resign under threat of lawsuits.
38. Barbara Keltner (2131Trenholme Drive): I have questions for the Lennar people. If you are a custom home builder, how many lots do you plan on building? Will you wait to have a client who will select the type of home they want on that lot or are you just going to build 20 to 30 homes at random? If you build before you have a client then you do not have a custom home and you will be overbuilding before you have a client; you will depreciate the value of the homes that are available. How many lots do you own? How many lots are you going to build prior to having clients? How many homes will you build of each design? Maybe you have 10 homes that are all custom, but if you build 10 of each design, you no longer have custom homes, you have little shanties side by side that all look like "ticky-tacky" houses.
39. Alchian explained that Brent Hawker, to whom Ms. Keltner addressed her question, is one of the declarants of King's Deer; he is not a representative of Lennar Homes who is buying properties from the declarant.
40. Rioth: We cannot speak for Lennar. I'll say our experience has been—and this goes throughout Classic and the Highlands—we work with all the builders. We work with them along the lines of keeping the values up because we have millions of dollars in lots. We want the highest values we can possibly have in here for the entire community. But we've had custom builders who have gone bankrupt. We have had small custom builders who have not followed through on some of the things they have proposed in their plans. We offer the experience of 16 years of dealing with builders to try to keep the home values up.
41. Keltner: Are you going to have a client who will build a house 20 or 30, 40 homes and have them all available on the market at one time? That will depreciate the value of the homes.
42. Brent Hawker (declarant): I am the declarant; I am not Lennar Homes. That is a business decision Lennar will make. I cannot answer for them. They will not build 20 or 30 homes that they have not pre-sold, but I can't answer their business questions.
43. Dorothy Kagarise (19620 Rathbone Circle): I have a comment primarily for Dan. I heard you say about the divisiveness within the community. There is no question about it. But I don't feel that it is because of the ad hoc group. It is because we come to a meeting and hear people talking about increasing our home values by \$150,000 via landscaping or a recreation center. But when I drive down Roller Coaster Road and County Line and I see those butt-ugly signs—that is what is going to devalue my home.
44. Bev Giltner (19385 Queens Crescent Way): I am an owner of a custom home. I have a \$925,000 home on Queen's Crescent for sale right now. When they start building these homes, are they going to have three or four homes with red, yellow and green flags, representing their plans A, B, and C? Because I don't care how nice they are; I don't care if they have granite countertops. They are still "tract" homes and it is the presentation. They may put nice products inside, but it's the presentation that is going against our community. And this is what will devalue our properties. The Lennar and Richmond image is very bad for King's Deer.
45. Bob Morgan (18470 Glenthorne Lane): I came here this evening as the Lone Ranger to defend Dan Potter and his activities on the board. But I'm extremely disappointed with reading the letter distributed tonight. They're waiving the requirements of the covenants and restrictions on the lots sold to Lennar. I think it is a travesty that they don't use the ACC, and if I were still a member of ACC at this point I'd resign. I think the questions regarding Dan's integrity while he was on the board are specious. I think that he has acted with great integrity and has the best interests of the community. We have had problems relative to the tractors, relative to the landscaping, but those were resolved. But I am so disappointed in Dan for waiving the covenants for these homes. Why can't they comply with the ACC decisions?
46. Carol Hatstrup (750 Lancers Court West): Because of the statement in the letter that seems to refer to a "small ad hoc group," I want to note that I and Corinne Solano were only approached by a small group, and that small group was at least 171 people. We did not know what else to call it. We tried to work within the system and all we wanted initially was to get those draft amended covenants off. Mr. Lebel, who was representing our HOA, said he could not disclose the declarant's plans due to a conflict of interest. That is the first anybody knew that we had the same law firm representing both the HOA and the declarant.

If I were the developer in Highlands with two years left for me to do what I needed to do, I would do the same thing that he and his partners were doing: try to maximize whatever I could do to try to sell my lots.

We asked in January, or December when we first discovered the pending Lennar sale when other homeowners brought it up. I think Mr. Hawker has a right to do that under 26F. The covenants say you can do it in Highlands; it just has to be a written agreement. That is where our issue of openness and fair dealing came into play.

Had the developers, back in August, September or October said, "We're thinking of this, as allowed in the 26F provision..." there is nothing that anybody in Highlands could have objected to. Maybe it's a marketing issue, but I think what has caused the concern and what's got this small group on the merger issue expanded was because of what was perceived, whether fairly or unfairly, as a lack of disclosure to all of the homeowners about what really and apparently were significant questions for Highlands.

I hope that the others will speak here if you really think it is a small group, and Corinne and I are out of line. We are willing to back out. We did not have that petition started. So many people were afraid to get started. Now it's the owners; it's all of you who decide how you want to proceed, or how your board proceeds. It's not Mr. Rioth.

Mr. Potter, I would be more than happy to sign whatever you want me to sign to say that we would like you off the board just to make it fair, but I can't speak for all the owners.

47. Potter: I am glad to hear you say that you would sign whatever you think is appropriate to make this animosity go away. And, I would suggest that you now have the legal representative that you work with, work with Jack Scheuerman and finalize that document. Then I would resign and we are all happy. I think that would be wonderful.

The petition was collected under the banner of, and I quote, "...you have been assessed \$14,895, a special assessment by your HOA. If you do not pay this within 120 days your HOA will file a lien against your property." Then later the petition says, "...because the developer hasn't turned over the roads in Highlands and they are in such bad shape." That is a lie, it was a lie then, and it is a lie now. And the 170 something signatures were collected under that banner. This is a copy of the petition. You say that it wasn't the topic of the petition. But this was widely circulated when the petition was signed. No one could be more tired of this than me and the rest of the Board members. We have asked repeatedly to find out what specifically we have done wrong. The landscaping was one issue; I hope it is cleared up tonight. No one is happy about Lennar; I don't know how to resolve that except to tell you they are going to be nice homes.

We as a board acknowledged publicly that we made a mistake in trying to merge the covenants. And Dan Rivers was president, I believe, when we merged the two associations. And it was always the intent to follow up the HOA merger with a covenant merger. So we formed a committee, the committee assumed that everybody was in sync. When the board found out it was wrong we completely withdrew that plan. And from what I can discern, that was your major complaint. We have said in every possible way we can, that we are sorry, and it's done. So, what issues are left? If we can sit down Carol, with the HOA attorney and my attorney and we can draft an agreement and put this to rest, and extinguish the threats of litigation. I would like nothing better.

48. Anthony Salomone (19711 Falcon Crest): I bought my house in January and I am appalled. I had my attorney review the bylaws and so forth. The concern is custom versus tract and we have heard that they are going to cost between \$600,000 to \$900,000. The question was raised, "Will there be 25 built and then sold?" The answer was, "We can't tell you what they are going to do." My question to the declarant, since you retain control is, "What will you allow?" You can answer that question. Will you allow ten of one style, five of one style, or 15 of one style? Or, will it be one house of one style in \$600,000 to 900,000 range home? That is a question that you can answer. You hold the powers to make that decision. So I ask you to answer that question and tell us what is your intention to allow the houses to be custom, to define the price range? Will you define the number allowed of the same floor plan?

49. Bart Atkinson (1632 Lyonsdown): I am also a homeowner. I purchased my home in December. For the purpose of disclosure, I work for the developers. I have actually worked with Lennar on the sale of lots in King's Deer. I can't speak for Richmond; I have not spoken with Richmond. To my knowledge Richmond has not closed on any lots at this point in time. I am not working with them directly. But I have worked with Lennar. And I know Lennar is planning to purchase approximately 25 lots over a year's time period.

Lennar is not planning to build 25 homes right out of the gate. Their plans are to construct two houses. The declarants and I have reviewed the plans. I assure you as a King's Deer homeowner, having seen the plans, and as a current member of the ACC, I am not offended by the plans. They will fit nicely into our community. They have custom features. I ask anyone to define what "custom" truly is. Like Dan has stated, the custom parade home in King's Deer has been built five or six times. Is that custom? There is no definition of custom. I will tell you that the features that I have seen in the Lennar homes that I have reviewed include granite countertops, hardwood floors, vaulted ceilings, crown molding, square footages equal or larger than most of the current King's Deer homes, full landscape plans, air conditioning. These are custom by any definition, and are as nice or better than half the homes in King's Deer today. The

prices they are quoting at this time are between \$600,000 and \$900,000 dollars. They have given us the range because they do not know what the market is going to be when the first couple of homes are built.

From the standpoint of value, I have a personal interest because I am a homeowner here and I don't want to see the home values go down. I am also a custom home builder and I have a spec home for sale in King's Deer for \$995,000. I am extremely glad that Lennar and Richmond are here because they are going to draw traffic to my home as well. I cannot afford, as a custom home builder, to go out and spend all this money in marketing. They—Lennar and Richmond—can and they will draw people into our community. They are going to support those of us who are custom builders, because the people will come to see the Lennar and Richmond homes, and see there are other homes for sale in the community. I'm pleased that they are coming in, because they are going to draw traffic to my home.

50. Salomone: My question still stands. How many like homes will you allow as the declarant? And how many lots will separate the same house plan? That is the definition, if you will, or at least I would believe, of a tract home. You go to the lots and there are five of the same home with different colors. They are just every other home. As the declarant you define custom, you define the range—\$700,000 to 900,000—you define your rights. So you can tell me. How many of the same homes will you allow to be built by these companies within King's Deer?
51. Atkinson: We have approved two homes. Lennar has purchased eight lots to date. They have asked for plans approval on only two lots. There are specific guidelines in the sale contract as to the separation of similar plans. Lennar is purchasing lots that are dispersed significantly over filings 4, 5 and 6. So their homes are not generally next to each other; there are a couple that are neighboring, but generally they are not. The sale contract stipulates that they are not allowed to put duplicate homes within the same geographic area. Lennar has 15 different homes that they are planning to build in King's Deer on 25 lots. Is there going to be some duplication? There might be in filing 6, in filing 4 and filing 5. I don't have the answer because I haven't seen their plans yet. They have submitted two, and they are two completely different homes.
52. Ric Vickers (18410 Glenthorne): I have worked with developers over the years, building houses. I recognize, Mr. Potter, that you have every right as declarant to do what you are doing; it is not unusual especially toward the end of building out a tract of land. As I listen tonight, the problem that I hear is not so much that you are selling the lots to a builder, but what builder you are selling the properties to. I think everybody would be quite receptive to Saddletree, Keller, possibly Nichols-Comito; these are all companies who build pretty high end stuff. But I think a lot of people perceive, myself included, that Richmond, if you look on the north end of town, every time you look around, is buying little parcels of land and is building a lot of cookie cutter houses. I am not suggesting that a house selling for \$700,000 to \$900,000 is a cookie cutter house. I think that there is every opportunity for them to build a nice quality home. I think that the perception though is that when you have the Richmond and Lennar sign out along the boundaries of King's Deer, that bothers everybody in here.
53. Bob Morgan (18470 Glenthorne Lane): I think that Dan's offer to resign from the Board would go a long way toward conflict resolution. But I also feel that it would be appropriate for the Board to have Dan as a permanent member to take advantage of your experience and history that you have here. I have no questions about the conduct of several issues that have been raised relative to the activities of the board; I think they were all joint decisions and judgments. But as to the legality of our activities, I think that if you were to resign they might withdraw their lawsuit for the problem they have. I think it is time we all consider getting on with it and let the board take on any activities that were appropriate for the benefit of all of us.
54. Witsken: When we were looking to build here I spent a lot of time at the sales office and I was told, "No non-custom builders would be allowed." We liked Toll Brothers because they build a fine house. Toll Brothers could not build here because they build the same design repetitively which was supposedly a violation of the King's Deer guidelines; yet they build high quality houses.
- In August, Paul Thompson submitted a Lennar design to our HOA ACC and that design was refused. A response was sent back to Paul, which I will summarize, said that the ACC felt that the home design and similar homes would be misplaced in King's Deer. Basically the structure was a very small footprint on a very large lot. There were some other issues mentioned in the letter also relative to the quality of the construction.
- I have not seen any Lennar designs. I know nothing of what they are building today. If you go to their web site they do not refer to King's Deer at all, yet. The Richmond American web site specifically points out that they will be building in King's Deer. It offers a choice of designs that are called Classic, Colorado, Infinity, and Heritage collections. I have here a representative floor plan from each, but these don't look like what Dan was showing. I don't know what they are building. I would feel more comfortable if the ACC had a role to play in approving what they are going to construct.
- The ACC has done a terrific job in the past, although I don't always agree with their decisions, particularly the two story detached garages. The declarant has done a terrific job in laying out King's Deer

in terms of trying to protect views and paying attention to water flow. I think it would go a long way to allaying some of the fears if you let the ACC play a role in the review of the plans.

55. Gina Pascale (740 Caspian Court): This is so out of control. Dan is right—it's got to be put to bed tonight. And I hope we're going to do that. There is such mistrust and it's sad. Homeowner's have a feeling that the Board let us down. You've made some decisions I have been asking about. And Richmond and Lennar is a perfect example of that.
- We've asked that Dan get recalled and you've told us that can't happen. We've asked Dan to step down and he said, "Sure. With the fact that I get to pick my successor." If Dan chooses to step down, I just want it on the record that Dan won't be allowed to choose his successor. While I appreciate Mr. Morgan's comments that Dan could give valuable input, if Dan's staying, I'm not okay with that either.
- The input we're hearing isn't real valuable because we are not too happy right now. And it's because of decisions that are being made on our behalf, that we did not ask for, and I don't believe that our best interests are being represented here. I don't know about you all, but nobody asked me about Richmond and Lennar coming in.
- We did not want a rec center, and we did not get it because it was brought to our attention. I wonder if it weren't brought to our attention where we would be right now.
56. Potter: I would like to be involved in the Board's decision to fill the vacancies. I am only one vote of six at present, seven with a full board. I am not picking my successor. I am one vote. I would like to be there when my replacement is chosen.
- Earlier you sent me an email that you would not be satisfied unless I provided you with certain checks and receipts for the landscape. Are you satisfied with my response?
57. Pascale: No, I am not satisfied to hear you say that you were drafting up landscaping basically without the board's consent. You went out and said we're going to do this in so much time that we have. It was \$65,000 that you decided we needed to spend primarily for the intent of the Parade of Homes. It came out of our reserve emergency account, which, if I'm not mistaken, was taken out of our account after you said these improvements needed to be done. You had already decided to do the work. I don't see that it's okay to take \$65,000 from these people's and my wallet for the Parade of Homes.
58. Allen Alchian (19415 Kershaw Court): I was on the board in 2005. I voted in favor of that \$65,000 for landscape. True the developer was going to landscape. I felt that what was being proposed for King's Deer was to the benefit of King's Deer. The developer asked King's Deer HOA board members if the HOA would contribute toward the landscaping. The developer had asked for a fifty percent share. The board did not agree to that. There was some discussion of what the contribution should be and we concluded that \$65,000 would be a reasonable contribution towards the landscaping considering what was going to be done. There was no intimidation of the board. You may not agree with the decision the board made; that's okay. The fact is we made the decision to support the landscape.
59. Pascale: Who did we write that \$65,000 check to?
60. Alchian: I believe that went to Cathedral Pines.
61. Pascale: Why did we not write that to the landscape company that did the work.
62. Alchian: Because Cathedral Pines had the contract for the landscape that was ultimately accomplished and we reimbursed them.
63. Pascale: So we wrote a \$65,000 check to Cathedral Pines for work that Mr. Potter recommended that we do, that he was going to do anyway.
64. Alchian: That he requested support from the board for the landscaping. Yes.
65. Potter: I do need to correct that. When we came to the board we we're going to enter a landscape contract to do the entrances at Roller Coaster, County Line and Archers. We came to the board and offered the opportunity to participate which would allow us to do the other two entrances—Kershaw and Royal Troon. As Allen said, the suggestion didn't sit well. And as you can see by the minutes it was batted around. Mary Fortey and I were on the board then and we abstained. The board approved the landscape. Sure the landscaping helped the Parade of Homes. But if the board had not participated there probably would be no landscaping at Kershaw and Royal Troon today. So the board decided to piggyback onto the contract where they got favorable pricing, and you got new landscaping. Yes, the \$65,000 check was cut to my company, Cathedral Pines. We facilitated, as you saw from the landscape architect's letter, she supervised, we paid the contractors. So, it was more than satisfactory for King's Deer.

66. Pascale: I appreciate that you are taking the time to tell me this. But I can't be only one here that finds it unbelievable that we took \$65,000 out of our reserve account, which is needed for emergencies. Our funds get pretty close to depleted, our dues go up, and I'm the only one that's concerned?
67. Potter: I'm not so sure the funds came from the reserve account. I really don't know, we would have to look into that.
68. Pascale: I asked for that information.
69. Potter: I know and we haven't gotten back to you.
70. Rivers (19335 Bardsley Place): I was the president of the HOA board in 2005 and on the board in 2004. I've been on the board and the ACC for probably five to six years total. It's hard to believe that on the expense of \$65,000 that you complain about it now. This was a year and a half ago. Dan Potter's strong suit is not communications; but he has done a heck of job for King's Deer. And we need to start recognizing this. We need to stop all this snipping and shooting at each other, and realize we have an awfully good place to live. That meeting, what actually happened, Dan called me the afternoon of or the day before the meeting—I forget which it was—and he said, "We started work today." I said, "You what? We haven't had the meeting yet." I think he realized that he had moved a little fast on that one. And we got into the meeting and the lines were drawn. And then the drawings came up and we started talking about it and we said, "You know, this is good for King's Deer." So it settled down a little bit, and we realized that it was a reasonable plan, but we also realized this was not a \$15,000 job. So we all talked about it, and supported it. The only difference was amount we should contribute: \$55,000, \$65,000 or in excess of \$70,000. The board duly voted under the covenants and bylaws to pay \$65,000 for the project. We thought it was the right thing to do so we did it. You may not like it now, but we thought it was right.
- The other issue we have here is the declarant's rights in the covenants. Some of you may not like that the covenants allow the developers to waive the ACC rules, but that's the rules. That's what you signed for. A couple of times it would have been nicer if Dan had given the board a little more detail before leaping, but that's Dan. Dan gets a little brusque, a little crass sometimes, a little more on business. And sometimes I've wondered what we were going to do with him in King's Deer. But he has done a great job and he has spent a lot of his money in King's Deer. And that is why on these Lennar and Richmond homes, Dan is not stupid. If he puts cracker boxes in King's Deer, the people buying in Cathedral Pines will know about it. He's got a lot of reputation on the line here. But maybe he should talk to us a little bit more. The large signs are things we should sit down and talk about.
- About this little group of people here; I did not sign the petition. Carol came to my home and we talked for about two hours. I didn't like what I saw. I don't like attacking all these folks. I think of the words of Bob Morgan and his conflict resolution plan. I like that Dan says he would step off the board if it would resolve this; and Carol's conciliatory tone. Maybe the two of you can get together and work this out. I think that would be the best for King's Deer.
- I think there's valid points on the Lennar and Richmond homes and I think that is where it would be good if there could be some informal sessions to talk those over. Maybe it would put a lot of minds at ease if we get them to describe their proposals and become assured everything won't be cracker boxes in King's Deer. I would say, "Get involved and let's all work together."
71. Hazuka: Dan had some real good points. However questioning things is democracy, that's what it's all about. And I appreciate all Carol and Corinne's efforts. Help me resolve conflict and get started in the right direction. We have one open board position. Corinne Solano ran and received the next highest vote count. Put Corinne on the board and I would have a lot more confidence in the board. I personally have a lot more trust in Solano. If you really and truly want to start that process, it's in your hands.
72. Rivers: I don't know Corinne Solano, but I would agree to put Corinne on the board to get some different ideas.
73. James Ramsey (810 Caspian Court): I understand that you would like to hear from some of the board members. I have been a lot owner for almost 10 years, and in the house for eight years, For my house, I found a tract home builder who took my house plans as I modified them.
- I am in the mortgage business and I see hundreds of appraisals for the Tri-Lakes area. One and a half years ago I voted to approve the entry landscaping for King's Deer. I went all over Tri-Lakes communities, all the way down to Gleneagle and took pictures of different entrances and presented a slide show to the Board of Directors. We were the ugliest looking community in the area and we are supposed to be the premiere, number one community in Tri-Lakes area. Our entries had weeds, rocks, and no maintenance. Once a year a contractor mowed our common areas. We were in really bad shape. At the same time we were asking the homeowners to take care of your properties and be representative of what we really are.
- I did not move here to have my property values decrease; I moved here because I thought it would be a great investment. So I voted for the entry landscaping because that was right in line with my number

one priority. I could not sit here on the Board and ask the homeowners to do more on their personal landscaping if we as a community could not keep our common areas maintained. That is why we hired personnel to take care of our common areas, and why they are doing what we want them to do instead of hiring contractors to come in according to their own schedule.

I have worked with Dan for one and a half years and I have never, ever seen anything other than integrity come out of Dan Potter or any other board member that I have worked with. If Dan chooses to step off the Board because he is tired of what is going on, that is his right. I would never ask him to leave, because he brings a lot of expertise to our community. He knows people in the area, he knows contractors, he knows business; and believe it or not, we are a business and we are trying to run this as a business by making sure every penny is accounted for. This year we showed every single penny in the budget this year. I believe the intention of this Board is to bring value to the community and to bring up integrity.

And I also believe there are things beyond our control. Lennar and Richmond—or whoever, I don't care who the Developers sell their land to—are beyond our control, just as you can sell your individual lot to anyone you want to. The Developers have assured us the planned houses are just the same or better than what we already see. We have to trust them on that and go with it because the community is built as a prestigious community and I don't think they are going to let it fall.

74. Dorothy Kagarise: What do you say to the signs and trailers? How can you spend \$65,000 on beautiful entrances and then allow the signs and trailers. Please answer that question for me. I am asking you, Chairman person. I need an answer because first of all I have a huge problem with these.
75. Alchian: I don't disagree that it is a huge problem. It's not something that I have control over.
76. Rieth (declarant attorney): There has to be a balance between constructing a home, advertising a home and moving the project forward. The Lennar construction trailer will be gone when construction is done. You have to accept that in the process of construction there are certain things that are going to be done by the builder to construct the project.
77. Kagarise: How many of the builders in this room have construction trailers with big signs on them? Those signs are hurting us now. I understand that you can sell to Richmond, but those signs affect us on an individual basis, those signs are affecting property values. Please make the them go away.
78. Melinda Zark (1055 Trumpeters Court East): In the debate going on about what constitutes a tract home or a custom homes, Richmond Homes is already marketing their houses as tract homes on their web site. Do these companies even market themselves as custom home builders? Their actions are defining the homes they build, so the debate is kind of moot. It is obvious they are tract homes and they are marketing them as tract homes. I understand that the gentleman said that we should have read the covenants, but there is an intervening variable here and that is the entire development was marketed as a custom home development. There is a conflict between what was marketed to all of these people and what is in the covenants. So, that is where it is not as cut-and-dried. There are a lot of reasons that the declarant might feel pressured to sell off lots and, in the process, negotiate with tract homes builders by allowing different standards. People are responding and they have a valid concern.
79. Patty Cockell (2132 White Cliff Lane) For such a prestigious community with homes approved and built one house at a time, why are we lowering our standards? What compelled you to shift gears with the community? Clearly sales are going down; we all know what is going on with home building nationally, but we are selling out. I still don't know why you did not draft a contract and have them sign following the standards that have been in place. How did they push back so hard that we compromised who we are? Why can we not revert back to the ACC?
80. Potter: We have looked at the first two homes Lennar will be building. The homes are going to be fine. A couple of people alluded that we are "dumping" these due to financial problems. That is libel and I hope to not see such claims anymore. The big problem in King's Deer is that builders or owners are not keeping up their homes and are not willing to spend money on landscaping. Our concern is covenant enforcement. Lennar has included landscaping for both the front and back of their homes and that is better than some 50 percent of the homes in King's Deer.
81. Kathy LaSala (740 Lancers Court): We have been here about eight years and have paid our yearly assessment. I was really disappointed to get here tonight and find that I could not register because I am not included in the records as the property owner. This has never occurred in the past. Why did it happen this time?
82. Alchian: Evidently our records are not correct and there is a discrepancy about who is the legal owner of your property. I do not know why your name has been dropped off the records if it was previously

included. We will look into the matter and correct the records if they are wrong. For now I can only apologize for the apparent error.

83. LaSala: We all have a right to question and get answers. I think that is what this meeting is about; the questions were not being answered, I appreciate all the answers that we got. But we've got to keep doing it.

84. Marshall Boss (710 Kings Deer Point East): I move to adjourn. Motion was seconded. Passed.

**VIII.** The Special Meeting adjourned at 11:04 PM.

Date Approved: November 13, 2007

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*President, Board of Directors*

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*Secretary, Board of Directors*