

Minutes - Aspen Grove Condominium Association Board of Directors Meeting
5 p.m. Thursday January 16, 2014
1056 Hacienda Drive Walnut Creek
Conference call access: 855-212-0212 Meeting ID: 890-613-628#

Directors present: Tom Amen, Dick Bjur, Bill Hoffman (cc), Lynda Ward Pierce, Bob Thornton (cc)
Others present: Donna Amen, Cleve Bjur, Ed Kimball, Bob McClintock – McClintock Accountancy,
Peter Miller – CAMCO,

Members present on conference call line:

Thomas Deremigio 3072, Cornel Delorean 3064, Kim Storm 3111,
Greg Snow 3042, Robyn Rakusin 3115, Tom & Yvonne Merrick 3146,
Pete & Chris Vall Spinosa 3120, Larry Armstrong & Marian Hansen 3152/3176, Phil Matin 3169,
Berry Bosshard 3109

I. Call to order

The meeting was called to order at 5:05 by President Bjur. Mr. Bjur announced that anyone who was not an owner was not invited to listen in and should hang up.

II. Approval of minutes:

- a. October 28, 2013 Board of Directors Meeting
It was moved, seconded, and passed unanimously to approve the minutes as presented.
- b. November 16, 2013 Board of Directors Meeting
It was moved, seconded, and passed unanimously to approve the minutes as presented.

III. Executive Session Meeting Reports

- a. December 9, 2013 Executive Session
Approved a contract for the addition of metal framed locker doors in the tower buildings and discussed the contract for Northstar Security Patrol Services from Vail Resorts.

IV. Homeowner Renovation Regulations and Current CC&Rs

a. Tower Unit Remodel

Comments on the remodel work at tower building unit 3173 were made by owners of units in the building. The work involves installing three murphy beds (1 queen, 2 twins), laying hardwood flooring over an insulated subfloor, and relocation of the refrigerator. Neighbors' concerns involved noise generated by the floor and potential greater occupancy in the unit along with the impact of these modifications on the structural integrity of the building from the additional beds and anticipated occupancy.

While CAMCO records indicate that an application for the remodel was received on September 16th and approved by the Board in a letter dated October 10th, Mr. Bjur cited Section 6.3 of the CC&Rs that states these improvements to the unit did not require Board approval unless the structural integrity of the building is impaired.

It was recommended that on future disclosures of work being done on units, assurances should be received from the owner that no mechanical or structural impairments are being done to the building. If so, they need to be inspected by a building inspector.

It was moved by Mr. Thornton and seconded by Mr. Hoffman to get an opinion from a structural engineer that there is no structural problem to the building when three murphy beds are installed on a common wall in a tower studio unit. Motion failed 2 in favor (Hoffman, Thornton), 3 against (Amen, Bjur, Pierce).

V. Renovation Proposal for Unit 3120

The Board reviewed an application that included engineered plans for the enclosure of a portion of the front deck of unit 3120 and relocation of the front door. Two issues were raised, 1) the material alteration of use from an exclusive use common area to part of the unit and 2) if it is enough of an alteration to effect other homeowners. The Board reviewed the CC&Rs and referenced Section 6.5 Alteration Approval Procedures. The following standards for the Association Decision were addressed and discussed by the Board:

1. Will it impair the structural integrity of any part of the property?

2. Will not interfere with any utility?
3. Is it consistent with governing documents and government regulations?
4. Will it detract from the appearance, harmony, attractiveness and enjoyability of the property?
5. Will not impose an unreasonable maintenance burden on the Association?

It was moved by Mr. Amen seconded by Mrs. Pierce and passed 3 in favor (Amen, Bjur, Pierce), 2 opposed (Hoffman, Thornton) that the board made affirmative findings based on the CC&Rs Section 6.5 subsections C1 – C5. Based on the approval of the foregoing motion, the Mr. Amen moved and Mrs. Pierce seconded and passed (3 in favor – Amen, Bjur, Pierce) (2 opposed – Hoffman, Thornton) to approve the application submitted under a cover letter of December 9, 2013 by the owners of unit 3120 for the alteration and construction of a front porch enclosure with the understanding that the owners assume responsibility for the maintenance of the newly enclosed interior space and comply with any applicable provisions of the CC&Rs. The enclosure must be commenced and completed within one year of approval. A legal opinion regarding whether the Exclusive Use Common Area can be converted to a unit without the approval of the membership will be obtained from the Association's general legal counsel.

An owner expressed concern that the common area was being given away to an owner, not sold. Another owner asked if the Association had obtained a legal opinion on taking common area and allowing it to become part of a unit.

VI. Financial

- a. Review and approval of 2012-2013 Financial Statements and Auditors' Report by Bob McClintock of McClintock Accountancy Corporation.
Mr. McClintock reported that field work had been done and the Board had reviewed a "Tentative and Preliminary" set of the 2012-2013 Financial Statements and Auditors Report. The budget and finance committee was reviewing it as well and would provide comments to the Board. When the legal representation letter is received from attorney Bruce Inman a final version can be released to the Board. After discussion, it was moved, seconded, and passed unanimously to accept the 2012-2013 Financial statements and Auditors report subject to the finance committee's approval.
- b. Resolution to extend loan from Replacement Fund for one year
After discussion it was moved, seconded, and passed to extend the loan of \$378,000 from the reserve fund to the operating fund for a period of one year.
- c. Review December 2013 Financial Statements prepared by CAMCO.
It was noted on the balance sheet that the operating account had a balance of over \$28,500 while the reserve account had a balance of over \$196,100. Assessments receivable for the period were over \$2,500 while prepaid assessments were over \$36,500. On the year to date income and expense statement it was noted after two months of the current fiscal year that expenses exceeded income by over \$125,000 largely due to litigation expenses of over \$135,700 for the period.
- d. Collection actions on delinquent accounts
Mr. Amen reported on the collection action on Unit 3108. Recently the Association was awarded a \$25,000 judgment from the Placer County Superior court in Roseville. Further steps will now be taken to enforce the judgment on the owner and collect the funds.
- e. Homeowner loan program report
The association has now had two phases of the homeowner loan program.
The first phase had one owner lending the association \$150,000 at 10% interest.
The second phase had a number of owners lending a total of over \$142,000 at 10% interest.
- f. Exclusive Marketing Agreement with Charter Communications
Mr. Bjur reported that the association had entered into a marketing agreement with Charter. Consultant Morgan Fussell negotiated a 5 year agreement with the company for the Association. Each owner can contract with any provider and each owner will own the wiring in their unit, but only Charter Communications can market their services to Aspen Grove Homeowners during this five-year period. The Association will be receiving a certain dollar amount from Charter. A percentage of the amount received over the originally offered amount will be paid to the consultant.

VII. Homeowner Loan Drawdown and Second \$1,500 Loan Assessment

After discussion, it was moved, seconded, and passed to approve another loan draw of \$180,000, bringing the total amount borrowed to 50% of the originally committed amount. Any further future draws will include participation from the sole participant of the first phase.

The second \$1,500 assessment will be levied in mid-February. A cover letter explaining the history of the three phase assessment totaling \$6,000 will be included with the assessment billing to all members.

- VIII. Association Agreement with Charter regarding TV and Internet Service
Mr. Bjur will pursue information on obtaining a bundle agreement from Charter for the Association. This will be for reduced cable and internet service costs similar to that of the Northstar Village Condominium Association.
- IX. Grounds and Building Maintenance
- a. Storage lockers in tower buildings
Meng Construction has installed new metal frames and metal doors on the ski lockers in the laundry room at tower building 3169-3180. A lock issue with a small hasp hole needs to be addressed. It was commented that the new doors look great and are a good upgrade to the room. Mr. Miller will talk to Mr. Meng about there being no additional costs for reworking the lockers from the original design.
 - b. Construction debris dumpsters and contractors' trailers
It was expressed that contractors' trailers and dumpsters should only be allowed in the Association's parking lots for brief periods during non-holiday seasons.
 - c. Suggestions for additional grounds and building maintenance projects during dry winter periods.
It was suggested that the property manager put a list together of maintenance projects for the Board to review. He will work with the CAMCO maintenance supervisor on this.
- X. Report on Litigation and DEIR for Northstar Mountain Master Plan
The Association's litigation attorneys are working on the appeal of the injunctive relief decision filed by the defense attorneys. While the judge has ordered the parties to mediate the bifurcated case, he cannot force the mediation to take place until the appeal is settled. The appeal is expected to be heard in the summer of 2014.
Mr. Bjur thanked owners for their comments on the Draft Environmental Impact Report for the Northstar Mountain Master Plan and their individual letters to the Placer County Planning Department. Attorney Greg Gatto of the Stoel Rives law firm has also reviewed the DEIR and drafted comments for the Association for submittal to the planning department.
- XI. Attorney present at Board Meetings and Director Access
Resolved, that need for attendance by Association attorney(s) at a meeting of the Board of Directors and/or members of the Association initially shall be determined by the President of the Association provided that such attendance by attorneys shall, upon the affirmative written request of three board members, be requested. No Board action taken to approve resolution.
Resolved, that legal fees and expert and other consulting costs be pre-authorized by the Aspen Grove Board President as to necessity and amount before they are incurred, regardless of whether they are under the contingent fee agreement or not. No Board action taken to approve resolution.
Further resolved, that the Board obtain updated near-term and long term cost estimates from Stoel Rives for discussion by the Board of Directors. No Board action taken to approval resolution.
- XII. Snow Removal
Due to the light winter there was little to report on snow removal.
- XIII. Discussion and Approval of Social Media Policy
After discussion of the policy, opinions expressed for and against it, and the fact that the association's general counsel had approved the policy drafted by Mrs. Pierce, it was moved by Mrs. Pierce, seconded by Mr. Amen and passed with 3 in favor (Amen, Bjur, Pierce) and 2 opposed (Hoffman, Thornton) to approve the policy as written. A copy of the approved policy will be distributed to the membership within fifteen days of approval.
- XIV. Discussion and Approval of Policy regarding the Recording of Votes at Executive Sessions
Mr. Bjur presented a draft proposal regarding votes and discussions in Executive Session Board Meetings that was reviewed and approved by the Association's General Counsel. However, it was the General Counsel's opinion that while acceptable, he doubted that it could actually be enforced. The issue that initiated this proposal was the disclosure of Board Member's votes when there was no opportunity to discuss their reasoning for voting the way that they did. It is attached. No Board action was taken.
- XV. Committee Reports and Approval of Committee Charters
- a. Budget and Finance Committee
The committee will be reviewing the Financial Statements and Independent Auditors' Report for October 31, 2013 and 2012 prepared by McClintock Accountancy. Changes may be requested for the statements prior to being delivered to the Association in final form for distribution to the membership.
 - b. Landscape and External Aesthetics Committee

A recommendation from the committee was made that the Board approve the suggested requirements for the attachment of signs and flags that are consistent with standards drafted by Mr. Thornton. It was moved by Mrs. Pierce and seconded by Mr. Amen to accept the proposed changes. Motion passed 4 in favor (Amen, Bjur, Pierce, Thornton) 1 opposed (Hoffman).

c. Communication Committee

No report on the website was given. Mr. Thornton announced that he was resigning from the committee effectively immediately because of the increased personal liability do to the passage of the new Social Medial Policy and at the recommendation of general counsel.

d. NPOA Liaison Committee

Mr. Bjur and Mr. Miller have met with both members of the NPOA board and with Bill Rock the General Manager of Northstar to further open communications regarding our present litigation.

e. Adoption of Committees' Charters by the Board

It was moved, second, and passed unanimously to approve the charters of the committees.

XVI. Open Forum - member comments on items not on the agenda

Mr. Armstrong commented that the vendor who did the work on the retention pond last summer should be issued a subpoena for his records to see what was done. It resulted in less water being there.

Mr. Armstrong commented that the he felt the Board was assuming a more libertarian attitude towards remodels. He requested that they be more involved in supervising remodels of unit and believed that someone needs to watch what's going on. He suggested tweaking the CC&Rs for more control of remodels. He expressed regret on purchasing two units in Aspen Grove with the current attitude of the Board regarding remodels and granting an exclusive use common area to become part of a unit without the approval of the membership.

Mr. and Mrs. Amen were thanked for opening their home to the membership for the meeting and providing delicious food and beverages to the attendees.

XVII. Set date for next Board of Directors meeting.

The next meeting was set for 3 p.m. Friday April 11th in the Adult Clubhouse, Northstar Rec Center.

XVIII. Adjournment

There being no further business the meeting was adjourned at 8:58 p.m.

Respectfully submitted,

Peter Miller
Property Manager