
CRESTED BUTTE SOUTH PROPERTY OWNERS ASSOCIATION

61 TEOCALLI ROAD, CRESTED BUTTE, CO 81224
PHONE (970) 349-1162, WEBSITE: www.cbsouth.net, FAX (970) 349-1163

Board Meeting Minutes May 13, 2020 via Uber Conference

Board Members Attending: Matt Feier, Mary Haskell, Margaret Loperfido, Matt McCombs via Uber Conference

Staff Attending: Dom Eymere, Benita Bellamy

Public in Attendance via Uber Conference: Matthew Barker, John Lawrence, Brian Levine, Jackie Levine, Craig Maestro, Brian Morelan, Sue Schappert, Andy Tyzzer, Sue Tyzzer, Sue Wallace, Ben White, (2) Unidentified members

Matt F. called the meeting to order at 6:05 pm.

Approval of Minutes from April 2020 P.O.A. Board Meeting

Updates and/or corrections to the April 8, 2020 Meeting minutes were requested and none were identified. Matt F. motioned to approve the April 8, 2020 minutes as written and Mary H. seconded the Motion. The Motion carried.

Financial Report

For the period ending April 30, 2020, Total Income was \$360,789 and Total Expenses were \$115,910 resulting in Net Income of \$244,879. The collection of Dues remains relatively consistent with past years with 55 outstanding accounts totaling \$27,935. From a Balance Sheet perspective, as of April 30th, Total Assets were \$1,234,269. Operating and money market accounts totaled \$255,573. Reserve Funds totaled \$373,174.74. Refundable Performance Deposits amount to \$157K and are held in segregated accounts. Dom reported that the Association remains in good financial condition.

The Board did not have any additional questions on the Projected to Actual Report. Dom informed the Board that the Protection Payment Program (PPP) loan has been approved for ~\$37,000. As economic uncertainty was rising due to the COVID-19 epidemic, the Association applied for a PPP loan in April to assist with payroll since at that time, staff hours had been reduced and it was believed to be a good resource to utilize. Since our application, it has been clarified that each applicant applying for a PPP loan must certify “that the uncertainty of current economic conditions makes necessary the loan request to support the ongoing obligations” of the applicant. While the Association has been affected in various ways by the virus, the payroll affect has been fairly minimal and our annual dues collection activity, which finances our day-to-day operations, has been fairly consistent with years past. Staff retracts its previous recommendation to pursue the PPP loan available by SBA and recommends that the Association withdraw its application submitted to Bank of the West.

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All Board members were in agreement with Staff's recommended to decline the PPP loan offer.

Matt M. requested Dom to track the new building projects and report regularly to the Board as well as One Valley Leadership Council. He also requested Dom to reach out to the COVID team so share how the pandemic is impacting the economics of the area and community. Dom noted that he is participating in the regular calls of the Council.

Matt M. motioned to approve the Financial Report with the additional request for creating a Building Summary report, tracking new construction projects approved by the Design Review Committee. Margaret seconded the Motion and the Motion carried.

New Business

Scheduled Property Owner Comment Opportunity Time – All members on the Uber conference call were present to participate on future agenda topics.

Approval of a Cluster Declaration, Lots 14 and 15, Block 15, Filing 3

Currently, Lot 14 has a single-family home built on it and Lot 15 is vacant land. The owners are requesting to cluster the two lots for future improvements. Margaret moved to approve the Cluster Declaration for Lots 14 and 15, Block 15, Filing 3; Matt M. seconded the motion. The Board affirmed the Motion.

Consideration and Possible Approval of a Camper Pilot Program - Due to anticipated member participation for this agenda item, the Board tabled this discussion until the published agenda time to be sure all members were on the call for comments.

At Matt F. request, Dom provided the Board with the accounts leading up tonight's vote. The CASC committee was formed to review, update and propose new language to the old covenants. Each item is being reviewed. Covenant 7.01 Temporary Structures Prohibited, prohibits the storage and parking of certain types of campers on an owner's property. A Camper pilot program was identified as one way to determine if and how to regulate the possibility of adopting a covenant that expands the criteria to allow certain campers. A survey was sent to membership and additional member comments were received after the survey results were published. Legal counsel was asked to re-review the current covenant language to clarify if a Pilot Program could take place. Upon final review from legal, it was determined that in accordance with Covenant 7.01, a Pilot Program is in direct conflict with current covenants and may put the P.O.A. in a position of legal exposure. The Board believes the appropriate time to review this pilot program would be through the CASC committee as the covenants are updated.

Matt F. confirmed he is not in agreement with the Pilot Program if it places risk or exposure to the P.O.A. Mary is in agreement with the Attorney's recommendation. Mary would also like to see it

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included with the covenant rewrite so membership may voice their opinions through the regular voting process. Margaret agreed with Mary's synopsis. Matt M. was also in agreement with the legal guidance provided and with using the voting process to host a pilot program.

Brian Levine commented that per the existing covenants, the Board had no authority to offer a pilot program and agrees with postponing the program until a covenant rewrite and vote. Sue Schappert was a past board member and noted that in addition to Covenant 7.01, there is also Amendment U that further clarifies that no temporary habitation is permitted. She does not want to see this pilot program lead the Association into legal issues. Sue thanked everyone for their time.

Matt F. recapped the discussion for members who joined the call a bit late. Matt M. started to make a motion and further discussion ensued. Matt F. noted that our vote should include that we would potentially explore allowing campers when it is voted on with a covenant change. Matt M. agreed and further stated that CASC is a natural way to vet this process through membership's input. Some additional comments were made from participants on the call. Sue W. explained the proposed pilot program was developed to test the idea prior to voting on a covenant change to allow campers. The Board suggests that CASC draft up such language to include within the covenant rewrite for the vote.

Matt M. motioned that at this time, we do not approve a pilot program in the CB South P.O.A. Matt F. seconded the motion. Everyone was in agreement and the Motion carried.

Discussion to Increase the Board of Directors to Seven Members

Matt F. opened up the discussion in David's absence. He is open to the idea of expanding the Board to seven members and asked for the remaining members thoughts. Sue Schappert inquired on why the Board was considering the expansion. Matt F. explained that as the community grows, the agenda has become more robust and the time commitments have grown making it more challenging than in past years; Matt noted that he has been a Board Member for the past six years witnessing the growth. Dom voiced his opposition to increasing the number of members sighting that it will become more difficult to gather consensus, requires more time to on-board new members and an increase in members does not mean effectiveness. Brian Levine stated that he thinks it would be a benefit and would offer people more perspectives, require more votes to approve agenda items and involve more participation. Matt M. noted that in his professional experience, smaller boards are more intimate and independent in their thinking and contributions as a smaller size creates a more relaxed setting. He would be more in agreement with leaving the board at five members. Margaret does not have a strong opinion either way but sees benefits to both sizes. She referred to a prior discussion that folks who would like to participate could also contribute by sharing workload with sub-committees such as CASC & TAP. Mary concurs with Margaret and would like to see some revitalization of committees by fostering more community involvement. Due to his absence, David provided his comments by email, in support of expanding. Matt M. recommended to delay a vote until David has the opportunity to participate in the Board

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vote. Since no proxy vote was provided on David's behalf, the Board agreed to table the vote until the next meeting so that he may participate.

Consideration to Affirm or Reverse the Decision by the DRC Approval of a Duplex Residence on Lot 8, Block, 9, Filing 2 – 499 Cement Creek Road

Dom was requested to begin the discussion with an overview of the proposed project. The P.O.A. has been working with the applicant, Brian Morelan part owner of South Butte LLC, since 2019. The project came before the Design Review Committee (DRC) meeting on April 16, 2020. The scope of work is to build two duplexes, one on each lot whose street addresses are 471 and 499 Cement Creek Road. The DRC approved one duplex and declined the seconded duplex sighting the two duplexes were excessively similar. The DRC decision stated Building A on Lot 7 was approved including a motion that was passed unanimously. Building B on Lot 8 was not approved, sighting it "Too Similar to Building A, Lot 7". The DRC offered some design suggestions on how to differentiate the two structures. Mr. Morelan asked for consideration of the DRC to instead approve the duplex on Lot 8 and disapprove the duplex on Lot 7. The DRC amended the previous Motion to approve the duplex on Lot 8 as requested by Mr. Morelan. Resident Andy Tyzzer submitted an appeal within fourteen days of the DRC approval requesting the Board of Directors consideration to reverse the decision of the DRC regarding the proposed duplex on Lot 8. The Appeal sights two items. The actions of the DRC are not consistent with the Covenants and Restrictions and other regulating documentation. Secondly, the DRC abused its discretion. At this time, Margaret recused herself since she has been hired for the landscaping design of this project.

Matt F. opened up the discussion for Public Comments. Andy Tyzzer thanked the Board for taking the time to review the Appeal. He referenced the Original Petition that was submitted to the DRC; Dom confirmed that the Board received the petition document. Mr. Tyzzer identified the names of adjacent property owners who signed the Appeal and the Original Petition. Mr. Tyzzer stated he feels the DRC action was inappropriate. He is requesting the Board to enforce the Special Area Regulations and the Governing Documents and states the process of the DRC did not address the specific line items listed within the Original Petition. He also feels the items that were addressed were incorrect. This is the basis for submitting the Appeal.

Brian Morelan thanked everyone for their time and shared the two family's that make up South Butte LLC want to be residents of this community. The lots were purchased due to the land use approval to build multi-family lots. The owners re-evaluated and instead decided to build duplexes that were more family style living design. He noted that the lot has not been maximized for this build out. He tried to be considerate to not block views, design for a family friendly structure and be a good neighbor. He has reworked the buildings and access to the lots based on initial feedback that was provided by the County and neighbors and is does not understand why the neighbors don't like it. The lots have not been designated as open space and the zoning has not changed through the years. We have provided landscaping to block lighting and tried not to block views to be considerate of the existing neighbors.

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Sue Tyzzer introduced herself and noted that she has written the Board directly. She strongly voiced her disagreement and feels the duplex does not fit into the neighborhood; the design does not align with the single-family homes in the neighborhood. Andy shared additional comments that the Rule and Regulations have not been followed and the proper building development process between the homeowner and Association was not followed. Andy believes the driveway that is shared between the lots will be an issue if Lot 7 is not developed. Matt F. asked for clarification if the intent is to change the design of the second structure that was not approved. Mr. Morelan stated that is true and is working on the design of the second building.

Matt F. asked Dom to clarify the next steps based on the Board's decision this evening. Dom restated the Board is tasked with approving the DRC's motion or denying the project approval by the DRC. The project was approved based as a duplex on the lot which the owner has legal right to build. The design meets the Residential Design Guidelines and includes porches, decks, appropriate breaks in the wall and roof planes. Exterior finishes fit within the scope of Mountain Architecture and the building aligns with other structures along Blackstock Drive, home to several duplexes as well as multi-family units. The DRC made a unanimous approval of the project based on its architecture and design. Craig Meastro asked Dom why the DRC did not approve the project at the first meeting. Dom explained that the DRC made suggestions to Mr. Morelan at the first meeting and requested him to work on these issues and re-submit.

Matt F. turned to the Board for their position on the Appeal and whether to affirm or repeal the DRC approval or break for an Executive Session. Matt M. asked for confirmation Staff decision is that the DRC made a firm decision and that legal counsel affirms the decision; Dom confirmed yes. Dom's recommendation to the Board is to affirm the decision of the DRC. The DRC addressed several design issues for this project and Mr. Morelan has revised the design to accommodate these suggestions. Legal counsel confirmed the owners have the right to build a duplex on the property.

Based upon the recommendation of Staff and Legal, Matt F. moved to deny the Appeal to reverse the decision of the Design Review Committee. Matt M. seconded the motion. There was not opposition to the Motion; the Motion carried.

Continued Business

Update and Discussion of Traffic and Planning Study Scope – Due to several agenda items awaiting additional participants, with this item was moved up on the agenda in order to maintain estimated agenda times.

Dom sourced several traffic study proposals. The initial proposals ranged between \$10,000 to \$14,000; both companies are readily available to begin. Dom contacted Ronnie Benson from the Metro District to discuss the proposed traffic study. Ronnie shared with Dom that he has been in conversations with a state trooper to analyze traffic patterns within the subdivision as well. The

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Board would like to continue pursuing proposals; they also discussed how impacts from COVID-19 might be a contributing factor in the results. With folks staying at home, normal traffic patterns are currently skewed. Dom was asked to obtain the opinion of these firms regarding the impacts of doing a study during this time.

Manager's Report

Dom shared an update on the Association's actions during COVID-19 update. He has been participating in several of the County calls including One Valley Leadership Counsel. As mentioned in his emailed report, staff is back to working regular hours. Sunset Hall is opening up; however, the playground and basketball court remain closed per County and State directives.

We are following all of the County's Public Health Orders which means the Ice Cream Breakfast will need to be cancelled this year. Margaret suggested postponing the event and if permitted, move the Ice Cream breakfast to end of the summer to kick off the new school year. It was agreed to target late August for the event. Dom will have a report on the proposed CBS Farmers Market next month as we are currently gathering information. The P.O.A. would like to proceed with the Annual Spring Clean Up date and the Board is comfortable with that. Social distancing will be followed and staff will be staging one car at a time to assist with their trash. Alpenglow has been cancelled for the year but we remain hopeful to be able to host the event, if the County's Public Orders change for public gatherings by August.

Dom shared that he is researching online voting options for the Association. He has sourced legal counsel to draft Electronic Voting Language for our Bylaws. Next meeting the Board will have an opportunity to review the draft of the Bylaw revision to introduce electronic voting.

Sue provided an update and overview of CASC to date. They have moved through two articles, Animals and Assessments; the next one will be Land Use and Design Review Committee. With the recent approval of the Special Area Regulations and Commercial Area Master Plan, CASC will be certain to not conflict with these documents. Dom and Sue have tweaked the process as they continue to review each Covenant. They are updating a first revision draft and then passing it on to legal counsel for review and vetting. This process allows for thorough vetting of the Colorado Common Interest Ownership Act (CCIOA). After legal review, the rewrite will be presented to the committee. Nine community members currently sit on the committee; the next meeting is Thursday, June 4th. Sue will provide the Board with a CASC quarterly report.

Sue gave a quick update to the Upper Gunnison Water Conservancy District (UGWCD) grant. The grant is paying for water meters to be installed within the park; some were installed last year and the remainder will be installed next week. In addition to the meters, this grant also included funding for tree audits, public outreach and a water audit. By measuring our water consumption, we are gathering data that will benefit us to create a realistic water consumption plan.

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Identify June Board Meeting Agenda Items

1. Vote to expand the Board of Directors to Seven Members.
2. Discussion to re-engage the Trails, Amenities and Parks Committee.
3. Compliance Update on the removal of Campers within the Subdivision

Next Meeting – Wednesday, June 10, 2020, 6:00 pm.

Adjourn – 8:17 pm