
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 March 10, 2021 – via Uber Conference

Board Members on Conference Call: Allison Butcher, Mary Haskell, Margaret Loperfido, Matt McCombs, David Neben, Scott Thomes

Staff Attending: Dom Eymere, Benita Bellamy, Sue Wallace

Public in Attendance as identified by Uber Conference Call Log: Matt Barker, Wes Bellamy, Joe and Shamai Buckel, Eric Shull, Pat Del Tredici, Andy Tyzzer, Ben White, one unidentified number.

Mary called the meeting to order at 6:05 pm.

Approval of Minutes for February 10, 2021 P.O.A. Board Meeting

Updates and/or corrections to the February 10, 2021 Meeting minutes were requested. None were identified. Matt M. made a Motion to approve the February 10, 2021 minutes. Allison seconded the Motion and the Motion carried.

Monthly Financial Report for February 28, 2021

Dom provided the Financial report update for the period ending February 28, 2021. Total Income was \$375,903 and Total Expenses were \$75,462.80 resulting in Net Income of \$300,440. From a Balance Sheet perspective, as of February 28th, Total Assets were \$1,299,357. Operating and money market accounts totaled \$289,354. Reserve Funds totaled \$356,302.40. Refundable Performance Deposits amount to \$105,000 and are held in segregated accounts. Staff continues to search for interest rate options that would earn higher than current money market rates.

The collection of Dues remains relatively consistent with past years, with ~\$298,000 collected as of February 28, 2021 of the \$352,000 invoiced out, or approximately 85%. In summary, the POA remains in good financial condition.

Dom requested any questions regarding the Budget to Actual Report. It was noted that Nordic donations were higher than budgeted. Dom mentioned that there will be an unanticipated Zamboni maintenance expense item next month for fixing the engine; it will be ~\$1,500. Matt motioned to approve the February 28, 2021 Financial report and Mary seconded the Motion. The Motion carried.

New and Continued Business

Scheduled Property Owner Comment Time – No one was on the call regarding non-agenda items. Dom requested input whether we should move this item to later in the meeting, to maintain the agenda time schedule. The Board agreed to keep it as currently scheduled.

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During this time, Mary asked Dom to share an update on the traffic study and consultant hiring. Dom and Scott Thomes met with Randy from SCJ Alliance for a review of the scope of work and a walk through of the commercial district. SCJ Alliance is opening a local office in the valley. Scott thought the meeting went well and that Randy was very knowledgeable and able to answer all the questions. He noted they seem very flexible and will be easy to work with. Dom noted that the company does not have counting staff and the P.O.A. will need to determine the best way to gather the required metrics. We are looking to facilitate traffic counts during the commuter work hours as well as busy, seasonal times like spring break and the month of July. We may have information from past studies that can be used. A density study that Jeff Moffett, of Triple Point Strategic Consulting is gathering will be shared with the traffic study consultant as well. The scope of work for the study includes the entire subdivision and specific intersections. The three items they will focus on are on traffic forecasting and modeling, pedestrian/bicycle circulation and connectivity, and parking.

Approve Modification to and Error in the Special Area Regulations

We are requesting Board approval of a correction to the CAMP document regarding an error that was found in Section 5.2, Permitted Uses, B. Residential Lots. The Board is required to approve the correction in order for the update to be recorded by the Gunnison County.

Published language incorrectly identifies **Filings 3 and 4** as approved for Multi-family within Section 5.2, Permitted Uses, B. Residential Lots. The correct language should read **Filings 1 and 2** as presented in the proposed modification. Legal counsel has provided their input on the process of filing the correction with the County. Dave made a motion to modify the language of the CAMP document to correct the error and Allison seconded the Motion. The Motion was unanimously passed.

Review of Covenant Amendment Draft: Articles III and V

The Board was to review Articles 4 and 5 for tonight's discussion. Sue asked if anyone had questions prior to her presentation. David asked why Article 4.1.2, Cluster Assessment was being changed and what was previously written. The covenant does not identify how many lots may be clustered so the committee specified a clustered lot is up to three lots and will pay one and half time the assessment rate. Currently the rate is equal to a single unit and it is a loss of revenue for the Association. The Board discussed the positive reasons to change as well as the associated challenges. Sue provided specifics on the process taken to arrive at the recommendation. The current thinking is that existing clustered lots would be grandfathered; the change would be implemented for clustered lots after approval of the covenant amendment. Sue said this is all on paper and can be changed and edited as the Board feels appropriate. Dom noted that we currently have seventy-five (75) clustered lots. A discussion ensued on the definition of what un-clustering means vs. sub-dividing. Dom noted that once you sign the Cluster Declaration Agreement it cannot be un-clustered; that is a current covenant rule and is written to remain a rule.

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Sue noted that the Board should be thinking about the voting structure. Some topics of critical importance such as campers or Short-Term Rental, may be too critical and impactful as to how someone may determine their vote. We need to be sensitive bundling the entire restated covenant as one vote, or a “wholesale” package instead of having separate votes on the specific Articles which are more sensitive or contentious. Sue presented each of the articles within Article 4 – Land Use (i.e.: How you may use your property). The categories include Cluster Assessment, Exterior Storage, Lot Appearance, Parking on streets and private lots, Use of Campers, Short-Term Rentals. Sue identified the Original Covenant language, the Restated Declaration language as well as identifying the Pro and Con arguments. The following comments were made during the Article 4 discussion:

- Lot Appearance – it is very subjective as written and language has been added to manage and enforce it. The criteria identify what and where items can be on your lot and requires owners to maintain your structures, decks, and landscaping.
- Parking on streets – Must be licensed, permitted, parked on designated spaces. Language helps to manage and enforce the rule.
- Campers – Public comment/survey indicated support for use of personal and visiting campers. The proposed article permits owners and their guests temporary use of a camper and it will require a written policy approved by the Board that will include use limitations. No Class A motor homes are permitted. No rental use of private lot for camper parking or Short-Term Rental. David asked why the language does not allow for grey or black water discharge into Metro’s wastewater system. Sue explained this is a request from the Metro District. Scott and Margaret agreed that we need to respect the input from Metro who manages these systems. Mary asked if owners are permitted to park year-round. As currently written, the owner would be able to park their camper. Sue shared the example that during Covid one of our owners/essential medical professional was staying in their camper to not infect their family as she was working throughout the pandemic.
- Short-Term Rentals (STR) – This item is not included in the original covenants. Public hearing showed strong support for STR use along with limits on number of days per year; a 90-day limit is being proposed. This will require a Board policy. Ideas on how to govern were presented including required contact information to be posted on site and a 20-minute response time for the property management to respond once contacted. The Board liked the idea but felt a finite time was unrealistic. Sue will review with the committee.

Matt asked about the ballot vote process. Sue shared that beginning in May, June, July, a series of Town Hall meetings will be held with membership to share the changes included in the draft. Legal counsel will guide us through creating a ballot. Sue is offering this education of the Board to help answer questions that may be asked of them by members.

Sue moved on to Article 5 – Architectural Control (i.e.: How buildings are to be designed). Since time was running short, Sue provided a short briefing of these articles. Building Height and Number of Stories were not discussed in depth as more information is required. There was perceived confusion on the previous ballot vote, and we do not want to impact this ballot vote for this article alone. A traffic study and density study are in the works; this information is essential

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to have a complete and thorough discussion. These items will likely not be complete by the ballot vote. David agreed that we need to present this ballot for success.

Sue identified next month's discussion will be on Article 6 – Animals and Article 7 – Assessments and Dues. Allison thanked Sue for her outstanding work and the time to present this information so thoroughly. Sue encouraged the board to email her or Dom with any questions. Matt, Mary and Allison were in agreement that future agendas need to dedicate enough time for these discussions or host a separate work session outside of the regular Board meeting.

Appeal Hearing to Reverse the Design Review Committees Approval for the Application of a Single-Family Residence at 225 Gillaspey Avenue, Lot C27, Block 5, Filing 2: Andy Tyzzer

Mary introduced the Appeal submitted by Andy Tyzzer; received on February 3, 2021. A timeline was developed by Dom and Mary requested the Board to reference this document. Andy is requesting reversal of the Design Review Committee's (DRC) decision at the January 28th DRC meeting. Andy thanked the Board for their time and presented his appeal arguments. He is respectfully requesting the Board to reverse the decision of the DRC approval of the application and remand the application back to the DRC. On January 21, 2021, Andy sent a letter to Dom requesting the removal of the project from the agenda on the grounds of inadequate noticing. The DRC agreed at that meeting to remove the project that evening. The DRC did complete a preliminary review of the project and it was decided to resume in one week later, on January 28th to review the project for approval. Andy states both the January 21st and January 28th were not properly noticed and identified the CAMP language from Section 6 – Development Review Process and Permits. He is asking to reverse the original action for two reasons, there was not adequate notice and there were no plans to review. Andy identified the Commercial Area Master Plan sections where the meeting notice was non-compliant. He states that under Section 6.3.B - Review Process, number 6 -Notice to Public of Proposed Design Review as not followed. There was not a public notice of the January 28, 2021 meeting and therefore the public was unable offer comments. He states there is non-compliance with Section 6.3.A – Permit Application because he believes the applicant did not submit plans as defined. Andy then cited Section 6.3.B, number 11 – Modification or Reversal of Original Actions, through his appeal, he is requesting the Board to reverse the decision of the DRC.

Andy also stated he believes that tonight's regular Board Meeting was not noticed properly because Craig Maestro was not noticed by US Mail of the Appeal meeting. Andy identified that Craig was part of the DRC meeting and that according to CAMP, he should have received a notification by US Mail of the Appeal meeting.

Mary asked Dom to clarify the timeframe for project plans to be available for review; Dom stated fourteen days in advance of the DRC meeting. Matt asked Andy why the DRC decision was a poor decision. Andy stated because the review should have been stopped and moved to the next meeting. He believes they took an unusual step having a meeting the following week and that meeting should have been noticed. Andy wants to see proper notification for all the building

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projects. He believes the Bylaws are not being followed. The updated plans were received January 27th for the January 28th meeting after the DRC stated the plans were incomplete. Therefore, he believes they were out of compliance so they should go back and do it right. Scott inquired if the original plans were available fourteen days prior to the meeting. Dom noted that the project plans were available for the January 21st meeting fourteen days prior. A lengthy debate ensued regarding if the meeting agenda serves as the 14-day Public Notice. The project was noticed by meeting agenda, at the office, on the exterior Community bulletin board prior to the published agenda in the Crested Butte News on January 8, 2021. The Notice of Consideration for Certificate of Appropriateness was posted on the property as of January 7, 2021. The exterior elevation and notice were published in the Crested Butte News on January 15, 2021. Dom shared that there are a variety of noticing elements and therefore the meeting was properly noticed through the January 21, 2021 Agenda publication. To provide another seven days for public comment based only on the exterior elevation and notice, the January 28th meeting was scheduled.

Mary asked if any of the DRC members would like to offer their opinion. Eric Shull stated that the DRC listens carefully to all public comment. Their focus is on the architecture and meeting the design guideline criteria; they have the right in using their discretion on a project, which is a natural part of design. They may allow some changes if they feel it is the benefit of the design and architecture. There is not a variance required to change to modern, mountain architecture as Andy suggested earlier. The DRC works with community members to enable folks build their project. The DRC did have concerns about the architecture on this project and they did not approve it that evening. Eric stated that as a community, we are trying to help people not stop people from building their project and help folks become a part of our community. He noted that Andy did receive the plan changes prior to the meeting and most of the feedback received was on the process with limited feedback on the design. Ben White thanked Eric and agreed with his comments.

David asked Andy what would it take to satisfy that this project has met the appropriate notifications and approval in order to move forward. Andy requested a meeting to be rescheduled and to follow the CAMP guidelines. He would like to review the stamped set of plans. Matt asked Dom to clarify next steps. Dom stated a decision was needed from the Board on how the move forward regarding the Appeal. Dom also clarified that stamped, engineer plans are not required for DRC review.

In order to review the projects per the Appeal request, the applicant would be put back on the April DRC agenda. Matt asked about the impacts to delaying to April. Applicant, Joe Buckel clarified that the project is ready to move forward and has major impacts if plans are to be redone or scheduling pushed out; they are awaiting the final decision of the Board tonight to receive the P.O.A. approval. Andy noted that his next step in the appeals process would be forwarding this appeal to the County Planner which would significantly set back all scheduling. Andy will consider sending this appeal to the County Planner. Dom explained that the project is unable to move forward without a decision from the Board on the Appeal. Matt and Mary both do not want to slow down the process nor do they want to repeat the timeline of the prior project appealed by Andy.

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Shamai Buckel shared her thanks to the DRC for their time commitment and commented directly to Andy that he may want to consider helping the Board instead of fighting the community and board work. The Board discussed a multitude of ways to move forward based on the governing rules of the Association and CAMP regulations debating proper steps to move forward along with the impacts to the applicant's project. Andy clarified he is asking for the Board to reverse the DRC original action, properly notice the meeting again. The Board agreed that they wanted the best, clearest path to move forward for both appellant and applicant. The Board's agreed that the 14-day notice was required, and Matt points out this would give the community the opportunity to review the project. They also agreed to schedule a special meeting as soon as that 14-day comment period ended to minimize impacts to the project timeline for the Buckels. An April 1st meeting will be scheduled in order to meet the request of proper public notification and to meet the appeal request. The Board also noted that if the proper steps were not taken, an appeal would likely be filed with the County.

The entire Board weighed in the possible the next steps, denying the appeal, holding an Executive Session, or reversing the DRC appeal. Dom noted that a Motion should be made to match Special Area Regulations on page 19, Section 6.10.d – Appeal, Board Decision. “The P.O.A. Board shall affirm, affirm with modifications, or reverse the original action in writing, setting forth its reason for the decision.” The Board requested Dom to seek legal counsel for the proper way to hold the special meeting.

All agreed that a public notice should be issued to permit the 14-day review of the project. Matt made a Motion to Affirm the DRC's decision with modifications. Modifications include Board review subject to 14-day notices to provide sufficient Public Notice, along with the plans for official review. A special meeting will be scheduled on April 1, 2021. Margaret seconded the Motion. All Board members were in favor and the Motion carried. Matt stated the Board will reach out to the County to advocate on behalf of the applicants that we are pending approval.

Manager's Report

Due to the lengthy meeting discussion, no additional information was presented outside of Dom's written report. Dom noted that the 2021 park improvements will be postponed. The P.O.A. will look to engage a planner with through any funding that we may receive from a Met Rec grant application. David was in support of this decision and thought it was a great idea.

Confirm Next Meeting Date: Wednesday, April 14, 2021, 6 pm

April Board Meeting Agenda Items: Dom will email the Board with the April Agenda topics.

Adjourn – 9:39 pm