
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 July 20, 2021, 6pm In person and via Uber Conference

Board Members in Attendance: Allison Butcher, Mary Haskell, Liz Jordan, Margaret Loperfido, Matt McCombs, David Neben, Scott Thomes

Staff Attending: Dom Eymere, Benita Bellamy, Sue Wallace

Public in Attendance: Beth Appleton, Tully Burton, Aaron Huckstep, Scott Sanders, Katherine Struthers

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

Approval of Minutes for June 9, 2021 P.O.A. Board Meeting

Updates and/or corrections to the June 9, 2021 Meeting minutes were requested and none were identified. Liz made a Motion to approve the June 9, 2021 minutes and Allison seconded the Motion. The Motion carried.

Monthly Financial Report for June 30, 2021

For the period ending June 30, 2021, Total Income was \$436,480 and Total Expenses were \$198,634 resulting in Net Income of \$237,846. From a Balance Sheet perspective, as of June 30, 2021, Total Assets were \$1,329,095, Operating and Money Market accounts totaled \$286,031, and Reserve Funds totaled \$362,264. Refundable Performance Deposits amount to \$203,000 and are held in segregated accounts.

The collection of Dues remains relatively consistent with past years, with ~\$349,000 collected as of June 30, 2021 of the \$352,000 invoiced out, or approximately 99%. Second delinquency letters have been sent out to owners by certified mail and liens will be recorded next week on property records that are still delinquent. The total number of accounts with outstanding balances went from 26 to 15 this month, and there are only three remaining accounts with balances that have balances from previous years.

One Certificate of Deposit is maturing at the end of July and in efforts to obtain higher interest rate earnings we will likely choose not to renew the 12-month CD and move the funds to a reserve savings account instead.

New bank accounts have been opened with First Internet Bank of Indiana and they are in the process of being funded from accounts at Bank of the West and Community Banks of Colorado in order to maximize FDIC insurance coverage. In summary, the P.O.A. remains in good financial condition.

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It was noted that Income is up by \$3555.00 mainly due to Property Transfer Fees. Landscaping was up due to hiring of contractors. Dom has hired a seasonal part-time employee. Dom shared that the insurance quote is up 17% from 2020. Liz suggested that the carrier should include the skate park for 2022.

Scott made a Motion to approve the June 30, 2021 financial report. Margaret seconded the Motion and the Motion carried.

New Business

Scheduled Property Owner Comment Time

Liz shared feedback received from members about transparency of the voting results for the 2020 Board of Directors election. Dom acknowledged that the results have not been published publicly but have been available for review at the P.O.A. office. The Association will publish election results on the website from this election forward. Liz also discussed the *Letter to the Editor* sent to *Crested Butte News* by Brian Levine. A discussion ensued about Mr. Levine's comments and concerns; the Board was in the process of clarifying the points identified in the article regarding the draft Amended and Restated Covenants.

A discussion about regulating off highway vehicles (OHV) within the subdivision was held and Dom identified recent actions taken. Dom spoke with Sheriff Gallowich regarding speeding within the subdivision and requested more police presence and enforcement. Additional signage prohibiting OHV, unlicensed dirt bikes, and side by sides on subdivision roads are being installed. Additional speed radars will be installed along Blackstock Drive and Cascadilla Street in addition to Teocalli Avenue, adjacent to the park. It was emphasized that the Association does not have the ability to police the rules of the County; we can only enforce the rules of the subdivision as witnessed. The Board requested Dom to publish communications on the recent actions that have been taken and the Sheriff's response to addressing these issues.

Consideration to Amend Policy Regarding the Adoption and Amendment of Policies

Dom led the discussion of the proposed language change. Currently, language states the Association is to notify all members by mail, prior to a rule or policy amendment, adoption or repeal. This is unrealistic to send a mailing for every change the size of the community. Working with legal, proposed language has been reworked and will remove the requirement. Notification by mail is not required by the Colorado Common Interest Ownership Act. The proper notification of a proposed rule and/or policy update is the published monthly Board Meeting Agenda. A Public Notice will be published after the rule change, as notification to the public.

David made a motion to change the Adoption and Amendment of Policies as proposed; Mary seconded the Motion and the Motion carried.

Consideration to Amend the Noise Guidelines Violation Fine Schedule

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After consultation with the legal, a recommendation is being proposed to increase the fine schedule of the Noise Guidelines for the commercial district to \$1200 for the first violation, \$2400 for the second, \$4800 for the third and \$9600 for the fourth. Attorney, Aaron Huckstep introduced himself as legal counsel for Tully Burton. He provided his perspective and comments on the discussion. Mary explained the objective is focused on the future growth of the commercial district and the ability to enforce the rules and regulations. Mr. Huckstep suggested these actions were pointed at his client. Margaret added that the expansion of the business district is the reason for review of the fine schedule. David agreed that the current fines are low and was in agreement with adjusting the fines. Dom noted that the fine schedule is also being reviewed for residential as well. After a lengthy discussion, the Board decided to postpone the decision for a future discussion and possibly source public comment. It was noted that the Board has the authority to exercise, at their discretion, the appropriate fines as they see fit.

Update and Review of the Traffic Study

Dom reviewed the latest information provided by the traffic study consultant, SCJ Alliance for Task 1. The information presented is based on assumptions as we are still in need of the traffic counts completion. David asked Dom to reach out to both Jeff Moffett and Randy Sackett so that each may present at the next board meeting. Jeff will provide an overview of the density analytics and Randy will speak to the traffic study information. It was determined to hold off on inviting Randy until later in the project, after Task 3, in order to provide a more comprehensive presentation. Margaret suggested extending an invitation to both Pioneer Plaza ownership and Adagio Properties.

Notice of Hearing and Fine for 11-4 Holdings, Tully Burton, 282 Elcho Avenue

The Notice of Hearing is to discuss the violation of the unapproved, Special Events Permit submitted by Tully Burton. A \$200 fine was issued and paid for the violation of the Noise Guideline. A \$500 fine has been issued for willful, disregard in hosting the event without a Board approval of the Special Events Permit. Matt asked for the Board to voice any comments and/or questions at this time. The letter written by Huckstep Law LLC was distributed to the Board. David noted that he was interested in solving this amicably and had reached out to Tully. Scott asked for clarification on the direct discussion between Tully and Dom after the application was denied. Dom noted that several calls were attempted to the business and cell phone, with messages left on the cell phone. No return calls were received. A letter was mailed on May 24, 2021.

Matt turned the floor over to Aaron Huckstep, attorney for Tully Burton. Mr. Huckstep introduced associate, Katherine Struthers and clarified that 11-4 Holdings is the owner of the land and is not part of Tully's restaurant. Mr. Huckstep outlined the timeline starting with the application submittal on April 13th when Tully came into the office to fill out the application with Dom. The Board's review was on May 12th. Mr. Huckstep stated there was no formal notice provided to Tully of the pending review nor outreach after the meeting per Tully. On May 25th a letter was received. This was too late to postpone the event since it was a ticketed event and the money was spent. Tully stated there was no discussion regarding an incomplete application.

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Mr. Huckstep shared his comments about the violations, notifications and communications process. He requests that the Board deny the most recent fine.

Matt asked Tully to clarify some discussion points. Tully stated he believed his business did not need a Special Event Permit to sell tickets or plan the May 28th event. His understanding is that he can hold an event, independent of P.O.A. approvals since Tully's has an approved business license with Gunnison County. When he built the restaurant he was of the understanding that Tully's operates under the county guidelines, not that of the Association. Matt clarified that a business owner should monitor any pending issue with the Board, which in this case would have been the outstanding Special Event Permit. Allison emphasized this is a shared responsibility but agreed that the business owner has a responsibility to follow through. Tully has asked that a separate, Special Event Permit application be developed for a brick and mortar business such as his and believes this application does not work for his business type.

Owner Scott Sanders noted the permit requires submittal forty-five days in advance of the event and asked who is responsible to notify the neighbors. It was clarified as the responsibility of the event host to provide public notice. Additional items were identified to update the process for more clarity on the required information and actions. The discussion continued, focusing on steps that were and were not taken by both the Association and Tully. The discussion also included a debate on what rules and regulations apply to Tully's business. All owners and businesses are required to be aware of and operate within the rules and regulations of the Association. Regulatory compliance is part of being a business owner. Board member Scott T. shared that the Board will work to improve this process and establish clear, concise steps when addressing future event requests. It was also noted that the Board wants to respect the entire community's input of such events being held at private businesses. Allison asked Scott Sanders his opinion on the number of days needed for public notice and two weeks was suggested. Scott T. asked Tully what he considered an adequate amount of time to fill out the application for board review. Tully suggested that the impact of the event should dictate the timeframe required for board review.

Dom was given an opportunity to respond. At the time of application submittal, Dom listed the additional and missing items that were required for completion. These included allowable Covid occupancy by the county, how communications would be handled to inform the public, clarification of the event times and additional restroom facilities, and a completed site plan. The application fee was not paid at that time. After the May Board meeting, multiple attempts were made to reach out by phone; the cell phone on the application was called and messages left and attempts to call the restaurant number were also made.

David provided a summary of the hearing discussion. The Board will work on developing a more clear and thorough communication process on how, what and when a Special Events Permit applies to a business. He noted that when the updated changes are complete, Tully will have a concise process to follow. Liz was in agreement with David's summary. There was lack of policy and clarity on both sides, with a shared responsibility. Tully's attorney and Scott Sanders both declined to offer additional closing comments.

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Mary stated the Board has ten days to finalize their discussion and create a response in writing. Mr. Huckstep clarified that they are contesting the \$500 fine and are requesting the fine to be waived.

The Board agreed to go into an Executive Session following the Tully Burton, Notice of Hearing; the Association's legal counsel was also present. At the conclusion of the Executive Session, the Board conveyed it voted to reduce the violation fine to \$250.00. Legal counsel will issue the notification of the reduced fine to Tully's attorney.

Continued Business

Consideration and Possible Approval of the Draft Amended and Restated Declaration of Protective Covenants for public review

Sue presented the latest, redlined draft, ballot and timeline. A fourth question was added to the ballot addressing the approval to park campers. The Board provided feedback on each question from the sample ballot. Additional language was suggested for Questions 2 and 3. The ballot will define each question; Sue will rework the ballot per the Board's requests. A review of the redline changes was presented and the Board provided feedback and direction on the outstanding items. Revisions in the language regarding Short-term Rental was discussed and Sue will rework the language.

Dom confirmed that the covenant vote will be utilizing e-voting; several platforms were reviewed and references have been sourced. Dom will share the language needed to amend the Bylaws to utilize e-voting along with the references from the proposed vendor.

Manager's Report

Dom requested agenda topics for the annual meeting agenda on Sunday, August 8th, 2021. Please provide comments regarding agenda topics to Dom. The Board liked the idea of hiring someone to coordinate the design review process and will discuss the position with the 2022 Budget.

Adjourn – 10:24 pm