



MINUTES OF THE TELLURIDE MOUNTAIN VILLAGE OWNERS ASSOCIATION

BOARD OF DIRECTORS MEETING

November 11, 2020

BOARD MEMBERS PRESENT: Jeff Proteau, Jim Royer, Tom Richards, Sean Stogner, Chad Horning and John Volponi (all via zoom)

BOARD MEMBERS ABSENT: Tim Kunda (Proxy to Jim Royer)

STAFF PRESENT: Anton Benitez, Garrett Brafford, Whitney Pearce-Rosenfeld and Heidi Stenhammer (all via zoom)

OTHERS PRESENT: Joe Solomon, Stephanie Fanos, Glen Robson, Brad Schacht, Carla & Dave Mackown, Glenn Robson, Heather Lee, Jonathan Greenspan, Karen, Laila Benitez, Margaret Rinkevich, Mike, Rick Flores, Robert Stenhammer, Steve Togni, Huscar Gomez, Peter (last name unavailable), Madeline (last name unavailable), Rick Willett, Michael Rosenfeld, Abbott Smith (all via zoom)

1. Call to Order and Determination of Quorum

Chairman Royer called the meeting to order at 6:00 p.m. MST and noted that a quorum was established with 6 out of 7 Board members present via Zoom video conferencing. Tim Kunda assigned his proxy to Chairman Royer.

2. Consideration and the Approval of the Following Meeting Minutes

On **MOTION** by Director Proteau to approve the September 16, 2020 Board Meeting minutes as presented, the **MOTION** was seconded by Director Richards and carried unanimously (7-0).

3. Members Equity – Gondola / Chondola Reserve Balance

Accounting Manager Pearce-Rosenfeld reported that TMV conducts an annual, internal reserve study for the Gondola and Chondola for TMVOA and TMV long-term planning. Each year, TMV is asked to revise the reserve study to estimate what is needed, which results in a true-up for capital expenditures through December 31, 2027, resulting in a restricted equity total of \$3.4M for 2020-2027.

On **MOTION** by Director Richards to approve a \$91,896 adjustment to the balance for the “Members’ Equity, board designated” account for capital expenditures related to the Gondola and Chondola through 2027 to bring the 2020 projected balance to \$3,419,951 per Schedule M in the proposed 2021 budget, the **MOTION** was seconded by Director Stogner and carried unanimously (7-0).

4. Delinquent Accounts

TMVOA has the following delinquent owners:

- Chaika Telluride, LLC (Eduardo Bolio, Manager) - Outstanding Balance: \$943.59
- Hernandez, Carlos - Outstanding Balance: \$615.26
- MV Holdings, LLC (Kevin Keranen, Manager) - Outstanding Balance: \$88,238.25

Director of Finance and Operations Brafford asked if anyone was present to discuss the delinquencies. The representing attorney for MV Holdings, LLC, Brad Schacht, joined the video conference to discuss that delinquent account. Mr. Schacht stated that he believes that Lots 126-R and 152-R are being assessed based on development rights that do not exist relative to density and that there is an issue concerning the validity of the 2012 amendment to the Declaration that changed the zoning which violates section 217 of CCIOA. He believes that, even though TMVOA is pre-CCIOA, a vote of the members is required before a change to the Declaration can be made.

Mr. Solomon commented that he became legal counsel to TMVOA after the amendment to the Declaration so he would need to research the matter. Director Proteau inquired about the current zoning of the lots and whether they have been downzoned. Mr. Schacht commented that the lots were downzoned through a development agreement with TMV. President and CEO Benitez noted that he is under the impression that the lots have not been downzoned and are allocated a finite number of units of density in Mountain Village. Mr. Solomon noted that the density that is tied to the lots exists whether it is “peeled off” or left in the density bank and dues are owed on that density regardless. Mr. Schacht noted that the 2012 amendment to section 5.3 A1 amended the definition of site to include rights with density.

Director of Finance and Operations Brafford explained that when a site gets downzoned the density does not disappear. For example, if the sites were zoned for 40 condos and then downzoned to 20 condos, there remains another 20 units that can be assigned to another site. These additional units still have value. Even though the density is not being used it still gets assessed.

Director Proteau asked Mr. Schacht to provide TMVOA with a written request of what he is proposing as a resolution to this matter. Mr. Solomon will research the matter and provide a report of his findings. A notice of the date that the final determination will be made will be provided to the owner.

Regarding the other two delinquent accounts, there were no representatives present to discuss the delinquencies. TMVOA’s collections policy has been followed with the first two notices being sent and the next step is to file a lawsuit to foreclose.

Mr. Solomon explained that TMVOA has a strict collection policy which is required due to the laws governing owners’ associations. Unless an owners’ association moves swiftly to collect, an owners’ association can lose the right to collect dues. Specifically, if a bank forecloses on property, the bank is only required to pay six (6) months of past dues. TMVOA has never taken any member’s property since 2013 and has significantly reduced delinquencies since then with this strict collection policy.

On **MOTION** by Director Richards to proceed with foreclosure action against Chaika Telluride, the MOTION was seconded by Director Stogner and carried unanimously (7-0).

On **MOTION** by Director Richards to proceed with foreclosure action against Carlos Hernandez, the MOTION was seconded by Director Proteau and carried unanimously (7-0).

5. Member Agenda Submission Regarding RETA

Richard Hetzel, owner of a plaza-facing unit in the Centrum building, submitted a written request for the refund of his \$33,450 Real Estate Transfer Assessment due to hardships endured over the summer due to live music in conference center plaza. Mr. Hetzel commented that the decision to have live music in the plazas was made without input from TMVOA membership. The music, which he did not get to select, “blared” in his condo many nights a week from 5-7pm and now he is forced to move.

Mr. Solomon commented that the TMVOA Declaration sets forth many grounds for RETA exemptions, such as transfers to trusts, etc. However, nowhere in TMVOA’s governing documents are there provisions authorizing waiver of RETA in this situation. Over the past forty (40) years, there have been various noise issues related to condominium owners in the Mountain Village as well as the Town of Telluride. This is a Town of Mountain Village issue, and if the Town believes the music in the conference center plaza is unreasonably loud, the Town can and should take action to get that noise reduced. With this said, the TMVOA Board can and should consider reducing the volume of music played in the conference center plaza if indeed the volume is determined to be high as to be disruptive to residents.

President & CEO Benitez commented that TMVOA made a concerted effort to program low-key musicians during the day and in the smaller plazas and the more upbeat performers in Heritage Plaza for the later time slots. During this winter, musicians will only perform in Heritage Plaza. Restaurants are still allowed to hire their own musicians which may play on the restaurant’s patio. Nothing has been scheduled for next summer and efforts will be made to keep the performances in Conference Center plaza low-key. Feedback from the Village Table and the Distillery owners regarding the music over the past summer was overwhelmingly positive.

Chairman Royer commented that, based on legal advice, Mr. Hetzel’s RETA cannot be refunded. However, efforts will be made to fine-tune musicians and volume levels. Mr. Hetzel was told he could reach out to TMV if he would like to file a formal noise complaint.

6. Dial A Ride Update

President and CEO Benitez reported that Dial A Ride continues to be successful and will reopen for the winter season on Friday, November 20th. Summer seasons typically have less utilization than winter and this past summer was especially down due to COVID. Each ride costs TMVOA approximately \$22. Valid addresses are allotted 200 rides per combined winter and summer seasons with a \$15 charge per ride over the 200 rides. He noted that, with the number of new home acquisitions over the summer, utilization could increase if the new owners use the property as a rental. With COVID protocols, wait times will likely increase.

7. New Business / Other Business

Chairman Royer asked for any new/other business from the Board. There was none.

Chairman Royer as for any public comments.

Jonathan Greenspan commented that, with all due respect to Mr. Hetzel's complaint about live music, the goal of the Village is to be vibrant and people who want a quiet home should conduct due diligence before purchasing a property. He fully supports TMVOA's efforts to increase vibrancy in the Village to prevent having dark plazas and dark businesses.

Margaret Rinkevich was also sympathetic to Mr. Hetzel's complaint however, as a business owner in the Village and a Homeowner, she supports any attempt by TMV and/or TMVOA to increase vitality and encourage people to slow down in the Village and wander about which is essential to businesses.

8. Next Meeting Dates

The next Board of Directors meeting will be held on Wednesday, December 16, 2020 at 4: 00 pm MST.

9. Executive Session pursuant to CRS Section CRS 38-33.3-308 (3) & (4)

On a **MOTION** by Director Proteau, seconded by Director Richards, the meeting went into Executive Session at 5:55 p.m. MDT.

On a **MOTION** by Director Stogner, seconded by Director Volponi, the meeting came out of Executive Session at 6:40 p.m. MDT.

10. Adjournment

On **MOTION** by Director Proteau the meeting adjourned at 6:40 pm MDT.