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## RECORD OF PROCEEDINGS

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**Minutes of the Meeting  
Of the Board of Directors of  
Brightwater Club Property Owners Association  
March 28, 2012**

A Meeting of the Executive Board of Directors of the Brightwater Club Property Owners Association, Gypsum, Eagle County, Colorado, was held March 28, 2012 at 9:00 a.m., at the offices of Robertson & Marchetti, P.C., 28 Second Street, Suite 213, Edwards, Eagle County, Colorado, in accordance with the applicable statutes of the State of Colorado.

**Attendance** The following Directors were present and acting:

- Darrel Schmidt
- Joe Spencer (By Telephone)
- Julie Nelson (By Telephone)
- Don Janklow (By Telephone)
- Garrett Smith (By Telephone)

Also in attendance were:

- Karl Mosch (By Telephone)
- Eric Weaver, Robertson & Marchetti, P.C.
- Cheri Curtis, Secretary to the Meeting

**Call To  
Order**

The Meeting of the Board of Directors of Brightwater Club Property Owners Association was called to order by Ms. Nelson, noting a quorum was present.

**Appointment  
Of Director**

Malcolm Gray resigned his position on the Board due to scheduling conflicts. It was noted that Garrett Smith was previously on the Board, had received the second highest votes in the January 2012 election, and is willing to serve on the Board again. Upon motion duly made and seconded it was unanimously

**RESOLVED** to ratify the appointment of Garrett Smith to the Board to complete the term previously held by Malcolm Gray.

**Agenda**

There were no changes to the agenda.

**Minutes**

The Board reviewed the meeting minutes of the February 16, 2012 Executive Board Meetings. Upon motion duly made and seconded it was

**RESOLVED** to approve the meeting minutes of the February 16, 2012 Executive Board meeting subject to minor revision. Director Smith abstained from voting.

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## RECORD OF PROCEEDINGS

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### Brightwater Club Property Owners Association March 28, 2012 Meeting Minutes

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- Pigeons** Kirk French contacted Mr. Weaver regarding a pigeon problem in Brightwater. Mr. Weaver contacted the Town of Gypsum, Eagle County Animal Services, and the Division of Wildlife and found that pigeon problems are addressed by the Town codes. The Town's position is that no hunting is permitted within the Town boundaries; however, they do allow the use of pellet guns for ground squirrels and other varmints, which they feel pigeons could also be considered as long as not being shot out of the air.
- Director Janklow presented an option to use a product called "Bird Be Gone" to deter the pigeons from landing in areas where it is installed. The Board agreed to allow residents to use reasonable measures to remove pests within Brightwater while abiding to the Town of Gypsum laws.
- Survey** A draft survey was presented to the Board for comments. Director Schmidt suggested the survey be coordinated with the new owner after the bankruptcy issues are resolved and a new developer is involved in the community. The Board agreed to get comments back to Mr. Weaver with anticipation of working with a potential new developer on the survey.
- Bankruptcy Update** CDI filed a motion to dismiss the bankruptcy, along with a motion to return the earnest money to CDI. Sema Golf filed an objection to dismissing the bankruptcy and has requested the earnest money be used to pay down the DIP loan. The hearing to dismiss the bankruptcy is now scheduled for April 4, 2012. The mechanic lien holders filed a formal motion with the counts to have the earnest fund used to pay down the DIP Loan.
- The Brightwater POA has filed a separate motion to request the Courts do not release the earnest funds to CDI. The Board expressed hope that a potential buyer will present a proposal prior to the April 4, 2012 hearing.
- Security** Mr. Weaver is working with the supplier to have the security camera's installed in the coming weeks depending on the weather.
- Weed Spraying** Mr. Weaver is working with Scott Green to develop a plan and provide property owners with an option to contract with his company to treat weeds on their property in a simple and cost effective manner.
- DRB Administrator Proposals** A request for proposal was distributed with four firms submitting proposals, a summary of which was reviewed by Mr. Weaver. Director Schmidt stated that all four firms appear qualified for the position and recommended interviewing the

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### Brightwater Club Property Owners Association March 28, 2012 Meeting Minutes

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lowest priced applicant, which is a joint proposal from Borne Consulting and Norris. Depending on the outcome of the interview, additional firms may also be interviewed. Director Nelson explained the Association will request control of the DRB from Jim DeFrancia, at least until the bankruptcy is resolved and that the Board is also willing to work with the potential new developer. Director Schmidt and Director Spencer volunteered to interview the candidates with Mr. Weaver and will make a recommendation to the Board.

**Collections** Vertical Funding acquired ten lots through their foreclosure on the previous owner. Of the approximate \$86,000 owed to the Association, \$46,000 is required to be written off as bad debt due to the foreclosure. Vertical Funding has offered \$20,000 as a settlement for the remainder of the past due assessments. The Board agreed the Association has already incurred a substantial write-off and that the remaining assessments are not negotiable and demanded full payment of the amount, including interest.

A contract is pending on a property in the beginning of the foreclosure process. The realtor for the prospective buyer requested the Board reduce the balance owed to the Association in order to close the sale and avoid the time and cost to go through foreclosure, which will ultimately result in the Association only obtaining the 6 months super lien amount. Mr. Weaver recommended offering to forgive all balances prior to January 1, 2011, including interest and late fees. This means that the \$1,600 for all 4 quarters of dues for 2011 plus \$400 for the current quarter would need to be collected. The Board agreed with the proposal but added that the buyer must complete the transaction within one month.

**Financials** Mr. Weaver presented the February 29, 2012 preliminary financial report and reviewed the variances and forecasted results. The Board also reviewed the accounts receivable report, including a list of potential accounts to be turned over to legal counsel as part of what is referred to tier 3 collections. After review and discussion it was agreed to turn over the following accounts to tier 3 collections and to wait on the remaining properties until the bankruptcy is hopefully resolved in the coming months:

- Imhof (3 properties)
- Hearthstone (4 properties)
- DPSI Investments (9 properties)
- Godfrey / Bank of America (1 home)
- Scrivens (1 property)

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**RECORD OF PROCEEDINGS**

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**Brightwater Club Property Owners Association March 28, 2012 Meeting Minutes**

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**Adjournment** There being no further business to come before the Board, upon motion duly made and seconded it was unanimously

**RESOLVED** to adjourn the Meeting of the Brightwater Club Property Owners Association Board of Directors this 28th day of March 2012.

Respectfully submitted,



Cheri Curtis  
Secretary for the Meeting