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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 November 15, 2013

A Meeting of the Executive Board of Directors of the Brightwater Club Property Owners Association, Gypsum, Eagle County, Colorado, was held on November 15, 2013 at 9:00 a.m., at the offices of Robertson & Marchetti, 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
- Louis Amato (By Telephone)
- Joe Spencer (By Telephone)
- Garrett Smith (By Telephone)

The following Directors was absent and acting:

- Renzo Renzi

Also in attendance were:

- Don Janklow
- Kathy Schmidt
- Scott Green
- Dominic & Ora DeMaria (By Telephone)
- Karl Mosch (By Telephone)
- Kirk French (By Telephone)
- Terry Kermoade (By Telephone)
- Carl Luppens (By Telephone)
- Denny Gray (By Telephone)
- Janice Spencer (By Telephone)
- Dave Smith (By Telephone)
- Dan Wolf, Attorney (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 Eric Weaver, noting a quorum was present.

**Agenda**

No changes were presented.

**Minutes**

The Board reviewed the meeting minutes of the July 19, 2013 Executive Board Meeting. Upon motion duly made and seconded it was unanimously

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**RESOLVED** to approve the minutes of the July 19, 2013 Executive Board Meeting as presented.

#### **Common Area**

**Conveyance** Directors Spencer, Schmidt, and Smith have been working with GCH and the Associations attorney on completion of an agreement that would allow GCH to convey a portion of the common areas to the Association with other common elements, including the roads, to remain owned by GCH but maintained by the Association. The Association had both an engineering study specific to the roads and reserve study for all of the common elements completed to evaluate the condition of the elements and estimate the timing and costs of current and future repairs. Per the agreement, the costs of deferred maintenance will be equally divided between the Association and GCH and thereafter the ongoing maintenance will be borne entirely by of the Association. The terms of the agreement are contingent on GCH continuing to pay their proportionate share of the Association dues.

GCH has improved the Lake House, the Castoff Cabin, and the Gate House with no financial participation from the Association. The golf course has been restored to the condition it was in 2007.

The Association has already began the work to begin restoring the roads with approximately \$25,000 spent on road repairs to raise depression areas, crack sealing, and addressed drainage issues. GCH will reimburse the Association for 50% of this work. The improvement plan will be re-evaluated in the spring of 2014 with additional crack sealing, road repairs, shoulders improvements, landscaping, staining, and other restoration work performed, including the settling issues at the main entrance. The contractor hired by the Association has made temporary repairs to the entrance allowing the exit gate at the main entrance to be accessible this winter. It was discovered the sink hole was caused by a broken irrigation line, not the pond leaking, which is encouraging news.

The conservation parcel at the West end of the community will be conveyed to the Association from GCH. There is an annual cost of \$20 per sold lot that will be paid to the Conservation Trust by the Association for continued monitoring of the property to maintain the conservation easement. The common areas surrounding the lots in Filing 3 will also be conveyed.

Don Janklow questioned whether the agreement runs with the land, or is only with GCH. Director Amato stated the agreement is only with GCH but the intention is the agreement would be ongoing with the hope to convey the agreement to a future developer. Director Schmidt believes the agreement could continue with a future developer since not all of the common property has been conveyed. Mr.

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Janklow expressed concerns with the agreement being a baseline for future negotiations that could negatively affect the Association. Director Schmidt believes the agreement with GCH will be to the benefit of the Association and working together with CGH is a step in the right direction for the community after years of disputes with the prior developer. Upon motion duly made and seconded it was

**RESOLVED** to approve the Agreement between the Association and Gypsum Creek Holdings. Directors Spencer, Schmidt, and Smith voted in favor of the resolution. Director Amato recused himself from voting.

**Financials** Mr. Weaver reviewed the September 30, 2013 financial report. The accounts receivable amount has been reduced with payments received from a number of previously delinquent owners based on the collection efforts of the Association. The non-paying owners have been reduced from the budget of 76 to 42.

The proposed 2014 budget along with the 2013 forecast was reviewed in detail. \$550,000 of funds on hand will be placed in the replacement reserve fund at the end of 2013 for current and future common area maintenance costs. The replacement reserve expenditures are based on the reserve study estimates. The 2013 actual costs came in lower than estimated. The largest anticipated future need is a road overlay that is anticipated in 2020 for an estimated cost of \$1,472,000.

The 2014 budget will keep the assessments at \$300 per quarter with a 25% prepayment discount if paid in full for the year by January 31, 2014.

Mr. Weaver noted that the \$75,000 available in 2014 to be transferred to the reserve fund is not sufficient on an ongoing basis, but with replacement reserve expenditures being partially dependent on future development and the potential to collect additional past due balances, the dues were not raised at this time. The Board agreed it is beneficial to improve the economic environment by maintain the lower assessment to increase property values and encourage new buyers. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the 2014 budget, subject to one correction, with the assessments remaining at \$300 per quarter with a 25% prepay discount available if paid in full by January 31, 2014.

**Accounts  
Receivable**

Mr. We reviewed the accounts receivable summary, updating members on the collection process. Currently thirty-four accounts are in the collections process being done by Mountain Law Group and there are eight other individual owners

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that are not current. Foreclosure on five of these eight owners is not being pursued since those owners are in arrears four years on property taxes and are expected to transfer to the person or entity that has been paying the property taxes through the Eagle County tax lien process. The cost of the collection process was questioned. Director Schmidt explained the Board's attempt was to collect past due assessments or force a change in ownership to obtain owners willing to pay the annual assessments moving forward, despite the cost associated with collections. Mr. Janklow questioned whether the Association would pursue collection efforts against individual owners. Mr. Weaver stated it has been discussed but there was no decision as efforts have centered on the main goal of increasing paying members. Director Schmidt stated the Board is not willing to spend funds if it is anticipated the amount received would not cover the cost to pursue the collection.

#### **Accounts Payable**

The Board reviewed the accounts payable list. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the accounts payable list as presented.

#### **Collection Policy**

Mountain Law Group is willing to prepare a new collection policy for the Association. Mr. Janklow suggested the Board receive a proposal from the Attorney before proceeding. Director Amato indicated Mr. Wolf has stated the charges will be reasonable since a boiler plate policy will be developed for a number of association represented by his firm.

#### **Covenant Enforcement**

The Board received a proposal from Jill Baron to drive through the Association and address covenant violations for \$200 per month with a report to be provided on a monthly basis. The property owners in attendance expressed concerns with hiring a covenant enforcement officer with the few homes in Brightwater. Mr. Weaver informed the Board several property owners have called to complain about violations. Mr. Weaver stated property owners will be able to work directly with the enforcement officer, reducing his time and associated costs to the Association. Covenant violations not cured will be brought to the Board for action, including the ability to fine property owners. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the contract with Jill Baron for a cost of \$200 per month to perform covenant enforcement beginning January 1, 2014.

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#### **Snowplowing**

**Contract** The Board reviewed the Agreement from Pepe's Snowplowing to plow roads with homes at a cost matching the 2012-2013 contract amount. Again this year, only roads with homes on them will be plowed. Upon motion duly made and seconded it was unanimously

**RESOLVED** to approve the snowplowing contracting with Pepe's Snowplowing as presented.

#### **Annual Meeting**

The Board agreed to schedule the annual members meeting on January 4, 2014 at 3:00 p.m. The seats held by Directors Spencer and Smith are up for election.

#### **Other**

**Business** Mr. French recognized the Board and Mr. Weaver for the progress and improvements in Brightwater.

**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 15th day of November 2013.

Respectfully submitted,



Cheri Curtis  
Secretary for the Meeting