

Back Country Cabins Homeowner's Association, Inc.

Board Meeting – September 21, 2015

Minutes of Meeting

A meeting of the Back Country Cabins Homeowner's Association, Inc. ("the HOA") Board of Directors took place on Monday, September 21, 2015 at the United Professional Management ("UPM") office, located at 524 Galena Street, Suite A, in Frisco, Colorado.

Attendees: Joel Pins – President, Back Country Cabins HOA
Sean Serell* – Secretary/Treasurer, Back Country Cabins HOA
Bonnie Cole – President, UPM
**Teleconferenced into meeting*

TOPIC A. Roll call

- (1) Meeting called to order at 3:30pm
- (2) HOA President and Bonnie Cole present in person
- (3) HOA Secretary/Treasurer teleconferenced into meeting

TOPIC B. Quorum – Quorum met with 2 of 3 HOA officers in attendance

TOPIC C. Reading of minutes

- (1) **Motion: Sean made the motion to waive the reading of the May 16, 2015 Back Country Cabins HOA board meeting minutes. Joel seconded. Approved unanimously.**
- (2) **Motion: Sean made the motion to approve the May 16, 2015 Back Country Cabins HOA board meeting minutes. Joel seconded. Approved unanimously.**

TOPIC D. Reports of officers – No officer reports

TOPIC E. Reports of committees – No committees, no reports

TOPIC F. Unfinished business

- (1) President Update on Painting / Caulking Decks
 - a. Joel hired Jim Walsh, who is trained as a painting apprentice, to paint and caulk the decks
 - b. Scope of work
 - i. All the horizontal boards will be painted
 - ii. All parapets will be caulked
 - iii. Cost is \$800/day (man-labor) plus materials
 - iv. Work will be completed by the end of September
 - v. Decks will be accessed from outside
 - c. President confirmed with Consuelo Redhorse (UPM Bookkeeper) that there is \$2,000 budgeted in September to pay for this for this work
 - d. Paint and stain colors have been matched with the original contractor
 - e. Bonnie will post a notice on all unit doors regarding work being done
- (2) Update Declarations
 - a. Group agreed the Declarations need to be updated, however not right away (see attached two pages from the May 16, 2015 Board Meeting minutes for the discussion of updating the declaration)

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TOPIC F. Unfinished business (continued)

- c. Big issue is Limited Common Element vs. General Common Elements
- d. Board will address this issue again in the Spring
- (3) Other Unfinished Business
 - a. Water timers will be removed by first week of October
 - b. BobbyCat will blow out the sprinklers
 - c. Trash and recycling bins need to be cleaned; Bonnie will speak with Mario (Colorado Property Maintenance) about getting this done
 - d. Recycling bins are being filled up faster
 - i. May need to have weekly pickups
 - ii. In the notice to be posted on unit doors, Bonnie will add a request for boxes to be broken down

TOPIC G. New business

- (1) Vice President Replacement (for Mara Kaiser)
 - a. **Motion: Joel made the motion to nominate Pete Campbell to take Mara Kaiser's position as Vice President, and to serve the remaining 2 years of her term. Sean seconded. Approved unanimously.**
 - b. Pete Campbell has accepted the nomination for Vice President, and to serve the remaining Board Member term of Mara Kaiser
- (2) Proposed 2016 Budget
 - a. Group reviewed the proposed budget (see attached)
 - b. HOA dues will not increase
 - c. Legal fees will not be added at this time
 - d. Potential items not budgeted for
 - i. Spruce trees will need to be sprayed for scale next Spring
 - ii. There may be more exterior maintenance
 - e. **Motion: Sean made the motion to approve the proposed 2016 budget. Joel seconded. Approved unanimously.**
- (3) 2015 Annual Meeting Date
 - a. October 11, 2015 at 12:00pm (noon) was chosen
 - b. Agenda items
 - i. Approval of minutes for the 2014 Annual Meeting and the August 14, 2015 Special Meeting of the Members
 - ii. New Rules and Regulations
 - iii. Board Member election
 - iv. Snow removal contract
 - v. Financial Update
 - 1. Operating Account
 - 2. Reserve Account
- (4) Bill from Lawyer Regarding Amendment to the Declaration
 - a. Bonnie presented the August invoice from WLP&P for the Amendment to the Declaration
 - b. Joel and Sean agreed that the HOA will reimburse UPM for \$420 of the invoice

TOPIC H. Adjournment – Meeting adjourned at 4:10pm

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TOPIC G. New business (continued)

- d. Legal fees
- i. The budget will either include legal fees of \$3,000 to amend the declarations or not include any legal fees.
 - ii. Legal fees to revise the entire HOA declaration would be around \$5,000. This is an option but was not included in any of the proposed budget.
 - iii. Bonnie read an email from Mark Payne, attorney with Winzenburg, Leff, Purvis and Payne, LLP, delineating the legal issues and the costs to address these issues (the body of the email is attached).
 1. Per Joel, the city attorney had major issues with the declarations as well.
 2. The legal fees outlined by Mr. Payne are an estimate, not a fixed amount.
 3. Not making the corrections noted in the email could have very expensive, legal ramifications.
 - iv. If the owners approve a budget that includes funds to amend the declarations, Bonnie and Joel will meet with the attorney to discuss items such as yards (LCEs) and shoveling; as well as discuss parts of the declarations that don't line up with CCIOA, as the declarations need to comply with HOA regulations.
 - v. The board will propose for adoption the budget that includes the minimum reserve contribution with legal fees. Further, the board requests that UPM modify this budget to increase monthly operating dues by \$300 to \$2,086 per month. Required information regarding "per unit" dues will be prepared by UPM and sent to owners as part of the budget package.

Attachment to
9/21/15 Board
meeting minutes
re: update
declarations

(2) Method of Member Voting

- a. Group agrees that meeting in person or a phone call is the best way to communicate the budget proposal and dues allocation to the owners.
 - i. Joel will call Craig Howe and Liz Flynn.
 - ii. Sean will call Michael and Andrea Barsch.
 - iii. Bonnie, as a representative of the HOA, will contact Pete Campbell.
- b. The board needs a vote from all owners by June 15th.
- c. To be adopted, the proposed budget needs majority approval.
- d. If not approved, the board will need to readdress the 2015 proposed budget.

(3) Other New Business – Revisit deck and roof replacement (including membrane)

- a. This needs to be addressed prior to soliciting votes from the owners.
- b. Joel and Bonnie will have a conference call with Eric, the reserve specialist.

TOPIC H. Adjournment – Meeting adjourned at 11:20am

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Good afternoon Bonnie:

I'm writing to follow up on our conversation yesterday concerning the unit areas for the 6 units in Backcountry Cabins. You asked whether we could give an opinion about how the area of the units was determined under the Townhome Condominium Declaration of Back Country Cabins ("Declaration") for purposes of allocating common expenses, and whether the Declaration needed to be amended to clarify that determination. To try and answer your question, I have reviewed the recorded Declaration, with the attached Bylaws (the Bylaws not being signed), as well as the unsigned, unrecorded Plat of Backcountry Cabins that we have in our files, which, for purposes of our review, we have assumed is the same as the signed, recorded copy of the Plat.

The answer to the first question of whether we can give an opinion about how the area or the units was determined for purposes of allocating common expenses, is a fairly simple "No." The Declaration ranks among the worst I've seen in that it is unclear for various reasons, including whether the community is a condominium or a planned community (under the Colorado Common Interest Ownership Act ("CCIOA"), it is one or the other, but it cannot be both); it states in one provision that it is intending to "adopt the exclusion for small communities set forth in C.R.S. 38-33.3-116 (under ten units), which exemption is not available to condominium communities; and, it refers in several places to the project being a condominium, but does none of the things required by CCIOA to create or be condominiums.

There are many, many things wrong with this Declaration, but directly to your question, one of the things that it does not do that CCIOA requires, is that it must set out the allocated interests, and the formulas for determining them. In a planned community, the allocated interests include: (1) the number of votes allocated to each unit; and (2) each unit's share of the common expense liability. In a condominium, the allocated interests are these two things and each owner's undivided interest in the common elements. The Declaration neither states what the allocated interests are, nor the formulas for determining them. Therefore, it is anybody's guess as to how the common expenses are to be allocated among the units, other than, as you stated, it appears as if the area of the units was somehow considered in the original allocations. I would also note that, while the Declaration does not say how many votes are allocated to each unit, the Articles of Incorporation do reference one vote per unit, so we at least have that tidbit of information.

I would strongly recommend amending this Declaration to:

1. Clarify whether the project is a planned community or a condominium, and make all of the provisions of the Declaration (and if necessary, the plat) consistent with that determination;
2. Specify the allocated interests, including in particular, each unit's share of the common expense liability and the formulas for determining those; and
3. Revising any other provisions that the owners, the Board or you feel are necessary to clarify at this time.

Anticipating that the Board will want to know what the cost of doing this is, I would say that it will depend on the extent to which we are addressing controversial issues. As an example, if we can arrive at a formula that all owners can agree on for allocating common expenses, then the easier it is and the less time we will have in the process. However, if there are controversial issues, then that would necessarily require more time on our part. In any event, a fairly simple amendment that addresses items 1 and 2 above (assuming the owners can agree on whether this is supposed to be a condominium or not, and can agree on the formulas and allocations) would probably cost \$2,000 - \$3,000. Frankly, the whole Declaration ought to be re-written, and that would probably run \$4,000 - \$5,000, but I understand that the Association may not have the funds to do that at this point.

Please let me know if you have any additional questions. Thanks.

Back Country Cabins Homeowners Association, Inc.

Proposed 2016 Budget

	Total	Notes
Operating Income		
Operating Dues	26,004	same as 2015
Dues to Reserve	(7,764)	same as 2015
<u>Total Operating Income</u>	<u>18,240</u>	
Direct Expenses		
Electric Utilities	240	same as 2015 budget
Grounds and Parking Maintenance	2,840	same as 2015 budget
Management Fees	4,200	same as 2015 budget
Insurance	2,520	based on historical premium increases
Sewer	1,920	same as 2015 budget
Trash and Recycling	600	same as 2015 budget
Snow Plowing	2,000	used 2014-2015 contract term
Snow Shoveling	2,400	same as 2015 budget
<u>Total Direct Expense</u>	<u>16,720</u>	
General & Administrative		
Legal, Accounting & Professional Fees	300	tax prep same as 2015 actual; no other services
Miscellaneous Expense	100	same as 2015 budget
Taxes and Licensing	38	same as 2015 budget
<u>Total General & Administrative</u>	<u>438</u>	
<u>Total Operating Expenses</u>	<u>17,158</u>	
<u>Net Operating Income</u>	<u>1,082</u>	
Reserve Income		
Reserve Dues	7,764	same as 2015
<u>Total Reserve Income</u>	<u>7,764</u>	
<u>Net Reserve Income</u>	<u>7,764</u>	

Proposed 2016 Budget

[illegible]