

**SUMMIT YACHT CLUB CONDOMINIUMS  
ANNUAL HOMEOWNER MEETING  
September 18, 2021**

Town Manager Nathan Johnson and Council Member Steven Milroy from the Town of Dillon provided an update on activities. The next phase of the Town Park project has been postponed until 2022 due to the labor shortage and supply chain issues. The marina rental dock will be replaced next year. The lake loop will be continued and expanded this winter. An ice skating rink concept on the lake this winter is being considered, pending Denver Water Board approval. The ice castles will not be returning to Dillon this year. Vail Health is slated to open in November. Bistro North restaurant will be opening in the Ruby Tuesday's building. Homewood Suites plans to open this fall. The Uptown 240 developers have had some financing issues but hope to resolve them within the next 60 days. Other Town initiatives include overnight parking and limiting short term rental licenses.

Owner questions addressed the following topics:

1. Tree Thinning Request – Town Council's stance is to remove dead trees. Thinning will require further discussion and the Nathan noted that this would be put on next meeting agenda.
2. Parking – There was concern about the financial impact of paid parking. Nathan Johnson said the intent is not to pass that cost on to long term renters or citizens of the community.
3. Meetings – The Town is working on offering a hybrid option for participation in the meetings.
4. Labor Shortage – Nathan Johnson said short term rentals do have an impact on housing availability but do not affect attainable housing. Current housing prices make houses unattainable for much of the workforce.
5. Parking – There is a shortage of parking at the marina. There was a suggestion to reserve some spots for slip holders. Nathan Johnson said the marina has been identified as a potential location for a parking structure.

**I. CALL TO ORDER/PROOF OF NOTICE**

The meeting was called to order at 10:28 a.m. Notice of the meeting was sent in accordance with the Bylaws.

**II. INTRODUCTIONS OF OWNERS/QUORUM**

Board members participating were:

J.C. Cox, President, #7

Joy Dunphey, Secretary, #27

Deborah Kirk, Member, #17

James Margolis, Vice President, #25

Kate Westhuis, Treasurer, #16/36/48/50/51

Owners participating were:

Susan Cunningham, #2/37

Mary Alice Underwood, #4

Mark & Drew Westhuis, #16/36/48/50/51

Kim & Dylan Nicoletti, #19/20

Shannon Ward, #22

Dave Hildreth, #29

Richard & John Trumble, #31

Cortney White, #33

Joanne Hunt, #39

Dorothy McKee, #41/44

Dale Lervick, #3/9

Ron Von Behren, #5

Robert & Alaina Barros, #18

Jennifer Rosely, #21

Robert Maxwell, #24

Lizbeth Milagros, #30

John McGovern, #32/45/46

Patti Ketchner, #34

Anne Deppermann, #40

Robert Hilbrecht, #43

Sam Adams, #47

Representing Summit Resort Group was Kevin Lovett. Attorney David Firmin of Altitude Law was a guest at the meeting. Erika Krainz of Summit Management Resources was recording secretary.

With units represented in person or by proxy a quorum was confirmed.

### **III. MINUTES OF 2020 ANNUAL MEETING**

Motion: Joy Dunphey moved to approve the minutes of the September 19, 2020 Annual Meeting as presented. Kate Westhuis seconded and the motion carried.

### **IV. FINANCIAL REPORT**

#### *A. Year-to-Date Financials*

Kevin Lovett reported that as of July 31, 2021, there was \$22,807 in Operating and \$78,646 in Reserves. The Association was operating \$2,486 unfavorable to budget due to overages in Legal Fees, Water and Landscaping. There were no owner delinquencies. All financials are posted on the website.

#### *B. 2021/2022 Operating Budget*

The budget as drafted includes a billing allocation of 2:1 for all expenses except for Comcast, which is billed on a 1:1 basis. The budget calls for a 2% increase to Operating expenses, mainly due to a higher water rate, and an increase to Reserve funding to provide an additional \$12,036 annually for a total of \$48,960. The one bedroom unit dues will be \$288/month and the three bedroom unit dues will be \$523/month. The new dues will be effective November 1, 2021.

There were no owner objections and the 2021/2022 Budget was deemed ratified.

### **V. MANAGING AGENT'S REPORT**

Kevin Lovett recognized Bernie Romero for his work at the property and the Board for their efforts on behalf of the Association.

#### *A. Completed Items*

1. Renewed the Association insurance policy.
2. Treated the trees.
3. Inspected the fire extinguishers.
4. Vole remediation is ongoing. Owners are asked not to put out seed bird feeders.
5. Touched up the exterior painting.
6. Repaired the railings and decks.
7. Patched the concrete.
8. Inspected and maintained the roof.

#### *B. Future Projects*

1. Asphalt repairs. Patching will be done this fall. Sealcoating will be done this fall or next spring. A proposal has been requested for a study to determine if the parking lot can be reconfigured to provide additional spaces.

2. Concrete replacement.
3. Continued railing and deck repairs.
4. Continued painting.
5. Building structure engineering inspection (decks, deck railings and stairs).

C. *Reminders*

1. Owners are responsible for maintenance and servicing their boilers and mechanicals. All water supply lines should be steel braided hoses.
2. Owners need to obtain building permits for some types of the work in their units. Owners are asked to inform Kevin Lovett of remodeling plans. Water shut-off valves should be installed if plumbing work is being done in the mechanical room.
3. Parking permits must be displayed. The one bedroom units get one space and the two level units get two spaces.
4. Smoking is not permitted at the property.
5. Items should not be stored on the balcony/patio. Firewood should be stored as close to the building as possible and in minimal quantities.

D. *Owner Education*

Owners are strongly advised to carry a HO6 policy for their unit. The coverage should include liability, contents, in-unit upgrades, loss of use and deductible assessment. If there is a leak in a unit that affects a neighboring unit, both owners are encouraged to submit claims on their policies. He noted that the Association policy will not cover claims that are deemed to be the result of contractor negligence.

## VI. OLD BUSINESS

A. *Voting Allocation*

The Declarations state that the three-bedroom units get two votes, and the one-bedroom units get one vote. The Bylaws indicate 1:1 voting but the Declarations supersede the Bylaws. Legal opinions were obtained and confirmed 2:1 voting as stated in the Declarations. The Bylaws should be amended at some point in the future however it was noted again that votes should be counted on the 2:1 basis as stated in the Declarations.

## VII. NEW BUSINESS

A. *Declaration Amendment Discussion*

Potential items for consideration are a cap on the number of units one entity can own, short term rental restrictions and right of first refusal. Committees were formed to explore these ideas.

Cap on Number of Units

The Committee suggested limiting the number of units that can be owned by one entity to three. Existing owners with more than three units would be grandfathered but would have to abide by one of the two following conditions: a) units may not be rented or b) the units may be rented with written approval from the Board, the rental must be long-term, and they would forfeit their vote for the unit while it is being rented.

Owner comments addressed the following:

This proposal seems discriminatory. The attorney should be consulted regarding the legality of this action. In a property of this size, loan eligibility allows for ownership of up to 25% of the number of doors by one entity so warrantability is not an issue. There was an objection to removing the right to vote. The short-term rental issue should not be mixed with the ownership cap. The cap should be based on four or five air spaces rather than the number of units. There was further support for keeping the ownership cap and short-term rental issues separate. There was a request for a written copy of the report and for documentation of the effect of short-term rentals, which Kevin Lovett will email. At least two local realtors will not show units in this building because of the multiple unit ownership. This issue could end up in litigation and drive up expenses.

David Firmin addressed the legal issues. He confirmed that limiting unit ownership is legal and he has done this for several other associations. The restrictions need to be reasonable and be approved by the requisite number of owners (at least 67%). The right to vote cannot be removed. Litigation is a real threat and some other associations going down this path are being sued or challenged. He advised grandfathering of existing owners with multiple units. One vote per unit regardless of unit size would be an anomaly. Votes are more commonly allocated based on the percentage of ownership. Changing the voting allocation would require a unanimous vote of approval of the entire membership.

#### Short Term Rental Restrictions

Richard Trumble said the three potential options discussed by the Committee were to do nothing, to allow a maximum of four airspaces for short term rentals (30 days or less) or to allow a maximum of two airspaces for short term rentals.

Owner comments addressed the following:

There was support for the first option since the Town is working on this issue. There was a question regarding how ownership by multiple owners would be handled and if it was legal to target one owner or a group of owners. A cap on maximum ownership or short term rentals would not impact the value of the property. Short term rentals negatively affect owners. The current owners of the multiple units rent 2/3 of them long term and 1/3 short term.

David Firmin confirmed it is legal to put rental restrictions in place. They must be applicable to everybody and narrowly tailored to address the specific issue.

#### Right of First Refusal

Kevin Lovett reviewed the clarifying guidelines for the Right of First Refusal (ROFR). The ROFR will be sent to all owners regardless of who the buyer is. The notice will be sent by email and regular mail and include a copy of the offer. Owners wishing to exercise are to contact the Board, management company, seller or seller's agent (instructions will be provided) within 20 days. Each entity will have one bid to exercise, regardless of the number of units owned. If no owner exercises within 20 days, the seller can continue with the sale to the purchaser. If an owner (or multiple owners) exercises the ROFR, the Board will process the ROFRs through a lottery system by drawing names from a hat with the seller included. Alternatively, the seller could select the purchaser.

Owner were asked if they wanted to keep the ROFR, and if it is kept, should it apply to unit sales only or also to long term leases per the governing documents and if the purchaser should be selected by lottery or by the seller. Of the owners who responded, 12 were in favor of keeping the ROFR for sales only, 9 were in favor of eliminating the ROFR, four were in favor of the lottery system and 15 were in favor of allowing the seller to pick the purchaser.

David Firmin did not think a rule could be put in place to prevent an owner from bidding on a property on the open market. It would be an unreasonable restraint on alienation.

*B. Property Management Company Replacement*

Drew Westhuis said the committee reached out to several other management companies in Dillon, Silverthorne and Frisco and forwarded a scope of services. Three vendors never responded. Summit HOA Resource and Basic Property Management were not taking new business and Reed Property Management declined to bid. The Buffalo Mountain Managers bid was \$4,300/month with additional charges for extra hours, Wilderrest was \$7,858/month, Vacasa said there were not enough short-term rentals in the building to make it feasible for them to manage. One company bid \$3,266/month, excluding landscaping and snow removal, which would be subcontracted. The estimated cost for outside landscaping service is \$10,000 and the snow shoveling bid was \$16,200. The labor shortage was a common theme. Mary Alice Underwood said this exercise demonstrated that SRG does a good job at a fair price and their services should be retained if they are willing to continue.

**VIII. ELECTION OF OFFICERS**

There were two Board seats up for election. J.C. Cox and Deborah Kirk were both willing to run for re-election. Mary Alice Underwood nominated Dorothy McKee, Alaina Barros nominated Deborah Kirk, Mark Westhuis nominated J.C. Cox, Dylan Nicoletti self-nominated and Richard Trumble nominated John Trumble. The candidates introduced themselves and provided biographical information. The vote will be conducted by email on Monday. David Firmin confirmed that the Board election vote allocation will be in accordance with the Declarations.

**IX. RATIFY BOARD ACTIONS**

**Motion:** Alaina Barros moved to ratify the actions of the Board over the past year. Mark Westhuis seconded, and the motion carried.

**X. OPEN DISCUSSION**

There was a question about owners bringing action against other owners for legal fees. David Firmin advised that owners speak to their attorney to determine what claim they might have.

There was a request to obtain pricing for replacing the siding, which is in poor condition.

**XI. ADJOURNMENT**

The meeting was adjourned at 1:13 p.m.

Approved By: \_\_\_\_\_ Date: \_\_\_\_\_  
Board Member Signature