

BACHELOR GULCH VILLAGE ASSOCIATION
Board of Directors Meeting
via Videoconference
September 23, 2022

A meeting of the Bachelor Gulch Village Association (“the Association”) Board of Directors was held on September 23, 2022. In attendance via videoconference were Board members Nadia Guerriero, Brian Kushner, and Nick Nichols, Dan Ramker, and Paul Gorbald. Also in attendance were Lee Hoover, Association Manager; Dana Miller, Sr. Financial Analyst; Lisa Mayers, Association Attorney; Koby Kenny, Director of Public Safety; Bonnie Kivel, President of Bachelor Gulch Residents Association; Mike Leeds, representing Bachelor Gulch Metro District; and Carol Floyd, Secretary for the meeting.

Nadia Guerriero called the meeting to order at 1:32 p.m. Lee Hoover verified proper meeting notice was given and a quorum was present.

Motions

Brian Kushner moved to appoint Paul Gorbald to fill the vacancy of the Class-C Board position. Nick Nichols seconded the motion and it was unanimously approved.

The Board voted unanimously to accept the appointment of Dan Ramker by the Declarant to the Class-D Board position.

Approval of Board Meeting Minutes

Brian Kushner moved to approve the July 18, 2022 Board of Director Meeting Minutes as presented. Nick Nichols seconded the motion and it was approved. Paul Gorbald and Dan Ramker abstained from voting because they were not in attendance for the July 18, 2022 meeting.

Public Input

Mike Leeds relayed Bachelor Gulch Metro District’s (“BGMD”) appreciation for the Association’s contributions to pay down debt and support fire mitigation. Mike suggested facilitating discussions between the Association and BGMD to coordinate developing plans. Nadia Guerriero commented in agreement with Mike’s idea and suggested Lee Hoover assist with coordinating these discussions.

Bonnie Kivel with Bachelor Gulch Residents Association spoke about property owners’ interest in adding pickleball courts. Nadia Guerrero noted Lee Hoover is working on this matter. Lee said he will share further information with the Board and greater group as it becomes available.

Design Review Board

Brian Kushner observed all projects were approved as is. Lee Hoover informed the Board that Steve Nusbaum will be returning from his leave of absence on October 3rd.

Public Safety

Koby Kenny reported August was a quiet month for Public Safety. There were zero suspicious or criminal activity calls and one disturbance from a bear getting into a trash can. Eight written warnings and one fine were issued for construction site violations, mostly parking violations. Two complaints that were addressed involved a barking dog and an aggressive delivery person. Over 38,000 vehicles came through the gate over the month. Fire mitigation will continue through November or until snow does not allow. Old Tree Growth Service (“Old Growth”) is the contractor working under the supervision of the Eagle Valley Wildland program and has made tremendous progress with fire mitigation this year. Koby spoke about a significant injury to one of the sawyers from Old Growth while cutting between Beaver Creek and Bachelor Gulch. Response was quick and the injuries sustained were not as serious as first anticipated. Nick Nichols commended Public Safety for their assistance in herding a deer from his home that had jumped through a closed window. Brian complimented the fire mitigation efforts. Nadia Guerriero commented on the proactive work, support, and collaboration throughout the entire community. Lee added that slash piles will

be burned this fall and he will work with Carol Floyd to communicate this information. Brian Kushner asked if there were any noise complaints this summer. Koby answered there were none that he is aware of.

Financial Update

Dana Miller reviewed the financials as of August 31, 2022. Of the \$13.9M in assets, \$14M is held in three Wells Fargo accounts and \$687K in refundable deposits. \$353K in liabilities is primarily made up of the amount due to Vail Resorts that is reimbursed the following month. The surplus through August is \$3.6M, plus \$1M held in the operating account brings the operating fund balance to \$4.6M. The improvement capital balance is \$8.9M. On the Income Statement, \$7.4M in revenue is \$3.8M favorable to budget, with the biggest driver being real estate transfer assessments ("RETA"). \$4.5M in RETA was collected through August based 85 sales. 17 of those sales were single-family residences, five of which sold for over \$10M. The year-end forecast will likely increase to \$4.8M in RETA with two additional closings in September. Civic assessments of \$2.9M are approximately \$1M favorable to budget. Dana noted this included budgeting for closure of the Ritz. Expenses in the amount of \$3.8M vs. a budget of \$4.2M are favorable by \$383K. Favorable variances include \$281K in Transportation for lower than budgeted billable service hours, Public Safety because of staffing levels, and Legal. Trash is unfavorable by \$42K due to fuel surcharges for commercial service. The operating surplus year-end forecast is expected to increase to \$3.6M. Improvement expenditures through August were \$27K. Additional improvement expense forecasted to come through in September include Board directed capital for the contribution toward the Ritz sound system and wildfire mitigation payment to BGMD. Tennis court releveling will be moved from the 2022 budget to 2023 and increased to \$50K. Improvements are forecasted to end the year at \$229K, leaving an ending fund balance of \$13M.

2023 Proposed Budget

Dana Miller summarized the 2023 proposed budget. Total revenue of \$4.5M, an 8.7% increase over last year's budget, is conservative. RETA is budgeted at \$2.1M. Average sales in 2022 were analyzed by type to determine the 2023 budget with an expected reduction in inventory and sales. RETA budget is less than half of the 2022 forecast. Civic assessments are also budgeted conservatively at \$2.4M based on averages from 2017 to 2019. Lee Hoover added that information from lodging partners in Beaver Creek indicate reservation trends are favorable. Dana noted significant increases in operating expenses due to inflation for supplies, repair and maintenance, landscaping contracts, and Vail Resorts wage adjustments. Transportation includes expected fuel increases. Trash will increase 8% for commercial service and significantly for the residential contract. Dana said the budget is based on ideal staffing levels noting the Association is billed for actual staffing. Expenses exceed revenue by \$1.2M and an Improvement Fund withdrawal of this amount is budgeted. Dana added that the Association will have a surplus of \$3.3M going into next year. Improvements are budgeted at \$1.457M, including the \$1M payment to Bachelor Gulch Metro District ("BGMD") for pay down of debt. Other improvements include landscaping upgrades, gatehouse landscaping, drainage between parking and tennis, tennis court releveling, perennial landscaping, trail signage, and wildfire mitigation. This will bring the ending fund balance to \$10M at the end of 2023. Lee Hoover stated Board directed capital was increased over 2022 to explore cell service and summer trail enhancements.

Brian Kushner approved the fiscal year 2023 proposed budget as presented. Nick Nichols seconded the motion and it was unanimously approved.

Banking / Investments

As discussed in the last Board meeting, Dana Miller explained one of the items noted in the financial audit was the Association is not in compliance with the Investment Policy which states all funds must maintain FDIC coverage unless approved otherwise by the Board. Wells Fargo does not offer FDIC coverage with their checking or Money Market accounts. Brian Kushner has recommended leaving \$250K with Wells Fargo and investing in two or three other financial institutions. Brian's and Dana's recommendation is to move the majority of funds and checking account to First Western Trust ("First Western"). They offer sweep accounts to provide FDIC coverage on all balances. They are a publicly traded company, have a local office, and offer strong competitive rates. A 1.75% rate was quoted last week. Brian spoke about a laddered CD option. He remained in favor of utilizing sweep accounts. Dana said current CD rates are not much greater than what are offered for a Money Market account. Nick Nichols noted all balances would need to be below \$250K to allow interest income to maintain FDIC coverage. Brian

recommended putting \$240K-\$245K in four institutions, including Wells Fargo, and the remainder with First Western. Dana explained the Association has an established bank account with Pacific Western Bank. She recommended moving funds to Wells Fargo, Pacific Western Bank, Alpine Bank, US Bank, and First Western Trust as the primary bank.

Brian Kushner moved to transfer funds to Wells Fargo, Pacific Western Bank, Alpine Bank, US Bank, and First Western Trust as the primary bank. Nick Nichols seconded the motion and it was unanimously approved.

Ratify Waste Management Contract

Lee Hoover stated a new Waste Management agreement was entered into noting there will be a significant increase in cost. Service will continue to include weekly trash and recycling pick up. The Association will support bear proof containers and cover the cost of one trash and one recycling container, plus one additional trash and/or recycling container if requested. Property owners will be directed to set up a personal account and will be billed directly for services beyond this scope.

Brian Kushner moved to ratify the Waste Management contract. Dan Ramker seconded the motion and it was unanimously approved.

Other Business

Short-term Rental Policy:

Lee Hoover referenced a draft Short-term Rental ("STR") Policy noting the Association currently does not have such policy. The proposed policy would require an annual license and small fee to cover the cost of a third-party to facilitate the process on behalf of the Association. Lee added other Associations are using Host Compliance. This would provide tracking to ensure civic assessments are collected. The policy would require each licensed property to have an appointed person available within 60 minutes of distance to address any issues. A set of Good Neighbor Guidelines would educate renters on the rules and regulations within Bachelor Gulch. Lee indicated next steps will be to meet with a small group of Board and community members to get feedback and vet the policy. Nadia Guerriero asked if there would be consideration of capping the number of licenses issued. Lisa Mayers advised leasing is permitted under the Declaration and cannot be limited. Nadia inquired if renters could be required to sign an acknowledgment of the Good Neighbor Guidelines. Lisa shared her opinion this would be a good idea if it can be administered. Brian Kushner commented on the limited availability of some property management companies during off season weekends. He questioned if there would be regulation around the number of cars permitted in a driveway. Brian asked for an explanation of the Board's role in the complaint process and commented on the insignificant fine structure. Lisa explained a formal complaint would be investigated and confirmed by Public Safety and brought to the Board for the imposition of fines while allowing the alleged violator an opportunity to contest those fines. Lisa spoke about recently adopted amendments to the Colorado Common Interest Ownership Act ("CCIOA") by Colorado legislature capping fines at \$500 for non-health and safety violations. If a violation is health and safety related, it can be unlimited. She is currently drafting a broader policy for covenant enforcement and fines to distinguish between health and safety violations and non-health and safety violations. Lisa clarified that any fines would be the responsibility of the property owner rather than the renter. Lisa asked for input on an appropriate initial fine amount. Brian Kushner and Nick Nichols suggested \$1,000. Discussion took place regarding there being no requirement of bear proof trash containers. Lisa said this would be a policy decision if the Board would like to mandate it for the community. Lee recommended having Waste Management exchange up to two trash containers per property for bear proof containers. Nadia Guerriero spoke in favor of requiring bear proof containers. She asked Lee for an anticipated timeline to implement the STR policy. He estimated implementing the policy within six months, prior to next summer. Paul Gorbald suggested adding a separate line item on the Public Safety report for STR violations. He also proposed adding a grace period into the STR policy for those who are currently renting short-term. Bonnie Kivel offered to discuss the STR policy and bear proof container requirement with the Bachelor Gulch Residents Association Board. She will relay any feedback received.

Record Date and Annual Meeting Date:

The Board was in agreement to hold the Annual Meeting in person with a virtual option.

Brian Kushner moved to set a record date of November 1, 2022, and set the Annual Meeting date for November 28, 2022, at 4:00 p.m. Paul Gorbald seconded the motion and it was unanimously approved.

Lee Hoover informed the Board that Brian Kushner's current term is up at the end of this year and he has graciously agreed to serve another term. The Board expressed appreciation for Brian's service.

There being no further business, Nick Nichols moved to adjourn the meeting. Brian Kushner seconded the motion and the meeting was adjourned at 2:55 p.m.

Respectfully submitted,

Carol Floyd
Secretary for the Meeting