

**SAN JUAN WAREHOUSE CONDOMINIUM ASSOCIATION
ANNUAL MEMBERSHIP MEETING
Wilkinson Public Library, Conference Room
100 West Pacific Avenue
Telluride, Colorado 81435
January 12, 2007, 10:30 A.M. (MST)**

MINUTES

The annual membership meeting of the members of the San Juan Warehouse Condominium Association was held on January 12, 2007, in the Conference Room of the Wilkinson Public Library, 100 West Pacific Avenue in Telluride, Colorado.

1. Roll Call, Determination of Quorum and Call to Order.

Present at Meeting: Leslie Evans (Unit A), Louise Sklar and Jerry Sklar, President (Unit C), Mike Metz and Scott Strong (Tenants and Owner of Smuggler Restaurant).

Present by Conference Call: Alan Towbin (Owner of commercial space occupied by Smuggler Restaurant, vacant commercial space, and two deed-restricted units).

Also Present in Person: Judi Balkind, Property Manager.

2. Motion to Approve/Waive Notice of Meeting.

President Jerry Sklar said the notice would be waived.

3. Reading and Approval of the Minutes of the March 2006 Annual Membership Meeting.

Jerry Sklar moved that the Minutes of the previous meeting be approved and waived. Alan Towbin. Motion passed.

4./5. Reports of Officers.

Jerry is the only officer at present and he has been working on matters to be taken up at this meeting (see below).

6. Nomination and Election of Directors.

Jerry said Directors, as spelled out in the Declarations, are everyone who is a unit owner. He added there is a special provision Mike and Scott have for getting on the Board. Judi noted that Mr. Delaney who is no longer here had been Secretary/Treasurer, so officers would need to be elected from among the Directors. **Leslie Evans moved that the current Directors be retained for one year. The motion passed.**

Leslie Evans nominated Jerry for President; Mike Metz seconded the nomination. Jerry accepted. Jerry nominated Les Evans for Secretary/Treasurer; Mike Metz seconded the nomination. Les accepted.

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|---------------------|--------------|
| President | Jerry Sklar |
| Secretary/Treasurer | Leslie Evans |

7. Unfinished Business.

a. Financial Statement Review – FYE 2006.

Judi reviewed the P&L and Budget for last year. Income exceeded budgeted items by \$3,900. The main points were as follows:

- Items that were under budget were:
 - Lawn maintenance and repairs
 - Lawn telephone
 - Electricity for common meter for common area, including heat for gutters
 - Snow removal – last year was a lighter snow year and the heat tape worked
 - Limited common elements – electricity and maintenance for elevator and snow melt for **gaps**
- Over-budget item:
 - Common elements – repairs and maintenance. Judi included a separate schedule in the packets with regard to this item. Repairs were done to the carport causing this item to be over budget by \$918.
 - \$136,078.39 for the boiler was approved by all members after the budget was prepared last year. The contracted amount was \$126,000.00 with a \$10,000.00 contingency.

Discussion followed:

- The metal to cover the pipes in the garage was a separate allocation between Units A and C. Judi said Mark has a plan to cover the gas pipes on the library side. It was noted that the meters will need to be accessible to meter readers. Judi will check if they are Sensus meters which are read remotely.
- The reserve figure (\$5,000) is to begin a general capital reserve fund for such future items as siding, roofing, etc.
- Judi said Leo (Peak Carpet Cleaning) cleans the sidewalk, common area, etc. (\$115/month). Leslie noted the cans and glass that may be from Smugglers. Judi said Leo had been out of town this week. Leslie also noted problems with garbage in front and burned out lightbulbs. Judi will speak with Leo.

- Jerry noted that Louise had fallen on the ice in the lip of the carport. The roof and hallways are being shoveled off from the spiral stairs into the alley. The Town has notified them that they must remove the snow immediately and not let it pile up. It was noted that there is a bucket of Ice Melt beside the recycling bin.
- Louise Sklar suggested fencing to seal off garbage cans, etc. at Smugglers. (This is further discussed below under CCRs.)
- Judi confirmed that the sprinkler system is checked every year by Mountain High Fire and Safety (on Budget under Alarm Maintenance and Repairs). Mike Metz said if the alarm system goes off, the monitoring system picks it up, the Fire Department contacts a building representative to confirm whether or not there is a fire, then the Fire Department responds if necessary.
- Leslie said he did not receive a response to his August 8 insurance comments until last week. In response to the answers received, he asked if the insurance is bid out annually since the cost appears to be high. Judi said it has been bid out in the past. The previous insurance carrier was significantly higher with less coverage. She will acquire new bids, though. Judi said State Farm Insurance has a \$10,000 deductible for all HOAs. Judi will speak with Leslie about this matter also since he appears to be knowledgeable on the subject.

Judi said the current broker is Neil Garing Insurance in Glenwood Springs; the insurer is Fireman's Fund. Louise Sklar said she thought the insurance cost was very high considering only common areas are insured. Judi said the insurance is for the entire building, **so that if a unit caught fire, common areas would be protected**. Discussion followed about joining with the commercial owners in one policy to lower the cost. Judi said commercial is always high. She will rebid the insurance and run it by Leslie. Mike said Hallam & Associates in Grand Junction is their broker. Their fire insurance is through Allied.

- Question was raised about the high cost for Snow Melt for such a small area. Clarification was made that the Snow Melt on the Budget is for the front of the building – up Pine Street from corner of San Juan to the end of our building (18') – as well as the walkway/entryway between the two buildings. Clarification was also made that Smuggler (G & H) only pays for elevator and trash, not Snow Melt at the front of the building. Judi said according to the schedule she was given when it was formulated (see second page of attachment under Limited Common Elements), Snow Melt on Pine Street is allocated 75% to F1 (Magic Market) and 25% to A, C, E and J. Judi said Smuggler (G & H) pays for 50% of the elevator maintenance and elevator electricity. She said Magic Market pays the

other 50%. The residential units do not pay for elevator maintenance or anything else pertaining to the elevator.

Leslie said according to the Plat, the elevators and elevator equipment room are general common elements; so the allocation is wrong. He said the residents are paying for taxes and insurance on something that is a general common element. **Mike said it is not just for Smuggler's use.** It is for the use of Magic Market, apartments downstairs, bathrooms in common areas.

b. Installation of New Boilers and Carport Area.

Jerry said San Juan Warehouse's boiler seems to be working, although it may need a little "tweaking" on the proper water level.

Judi said the boiler pipes no longer end beneath the carport, so the refurbished carport should not have the same problems. Siding will be put up to block the view of the trash area.

8. New Business.

a. Proposed Budget & Dues Review – FYE 2007.

Judi said the budget is slightly reduced from last year. She pointed out the following items which may need to be reviewed mid-year:

- The new boilers are more efficient and gas prices are going down somewhat, so she reduced the budget item for gas for Snow Melt. She said the January bill was half of last year's bill.
- She allotted \$500 for Snow Removal/Hauling in case some ice and snow removal is required.
- She increased Repairs and Maintenance because the front door needs to be repaired and because in the near future the wood on the side of the building will need to be stained and other small repairs may be necessary.
- Electricity for the common meter might be able to be reduced.

Discussion followed:

- Jerry asked if it is required by safety codes that the ceiling lights be on in the hallway at all times – and also the carport lights. Judi will look into a wall switch for each end of the hallways. The carport lights are on a photo sensor and the decision was made to leave the lights on as a safety matter and to prevent people from sleeping in the carport at night.
- Jerry confirmed by telephone call to the contractor that the carport wall will be 5-7 feet above the concrete, but not all the way to the ceiling.

- b. Proposed Project Review – FYE 2006. (duplication of 6b)
- c. Enforcement of the CCRs – Leslie Evans.

Leslie stated he is an attorney and does condominium work all over the country. He said that because it was winter, he did not open the door to the balcony when he looked at his unit in person. In June, after he had purchased his unit, he realized the doors and windows near his balcony could not be opened because of the excessive noise from the fan and because odors came into his suite. Sleeping was unbearable the two times he has stayed in the unit. He is now in the process of suing the realtors and Delaney because they didn't reveal the situation; and Mike and Scott might be included as third-party defendants because of the noise. He doesn't think he can sell his unit because of the smell. He said if the CCRs were enforced, the noise from the fan would be in violation of the CCRs.

Leslie read from §8.02 of the CCRs: *Each unit at all times shall be kept in a clean, sightly and wholesome condition. No trash, litter, junk boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon any unit so that the same are visible from any neighboring unit or any street.*

Leslie said the front of Wildflower looks like a disaster with the cans in front, dirty windows, and miscellaneous boxes. He said it looks like he lives behind a tenement or junk store. He said the balcony of the rent-controlled unit has a refrigerator, a kayak, bicycles and personal items, in violation of the CCRs and looks like a junk store.

Leslie gave copies of the Plat to everyone and said the Plat shows that the corridor between Smugglers and the building in which he lives is a general common element. He said general common elements cannot be used only for one specific unit (a limited common element would allow such use); so, **Smugglers'** recycling bins, ladders, bicycle, chairs for smoking, etc. should not be in the general common element area.

Leslie again read from §8.02 of the CCRs: *Declarant, its agents and assigns, and the Association and its agents shall have the authority to answer and clean up units which do not _____(noise)_____ isions of the section and charge and collect from the unit owners there all reasonable costs.* Section 8.05 of the Declarations was read as follows: *Nuisance is defined as any activity which poses an unreasonable risk of harm to another unit owner or which constitutes a substantial invasion of any unit owner's use and enjoyment of a unit.... No nuisance shall be permitted within the common interest community nor in the use, activity or practice which is the source of unreasonable annoyance or embarrassment to or which unreasonably offends or disturbs any unit owner or which may unreasonably interfere with the peaceful enjoyment or possession of the proper use of a unit, the common elements or any other portion of the common interest community by unit owners.... Each unit owner by purchasing a unit acknowledges and accepts the existence of a brew pub and restaurant and the health food market within the common interest community. The normal and reasonable use of the units where intended use shall not constitute a nuisance provided the following conditions are met: (1) the exhaust fan on the roof*

of Unit G is kept in good operating condition and a high level of maintenance so it does not produce any vibration or offensive noise or produce any additional odors than it does on the date hereof. ___[cough]___ and sound deadening material or devices in a three-sided enclosure that will focus the exhaust flow 180 degrees away from Units A and C toward San Juan Street and, too, no recorded live music will be played after 11:00 p.m. Leslie said “common interest community” is defined in the Declaration as being all of the property that’s subject to the condominium. He also read from §8.06: Sounds or Odors. No sound or odor shall be emitted from any portion of the common interest community which would reasonably be found by others to be obnoxious or offensive. and §13.01: Enforcement. The Association or unit owners of any units may enforce the restrictions, conditions and covenants and reservations imposed by the provisions of this Declaration by proceeding in said law or in equity or both against person or persons, either recover damages for such violations including reasonable attorneys fees incurred in enforcing these covenants or to restrain such violation or attempted violation.... Failure of the Association or of any unit owner to enforce any covenant or restriction herein shall in no event be... [end of side 1 of tape]

Leslie indicated the noise and odor should have been disclosed to him and he does not feel he could ever, in good faith, sell the unit, especially bringing the lawsuit against Delaneys. He said mufflers could be used to muffle the sound and remove the odor. Leslie continued to discuss items that he felt were not in compliance with the CCRs and Declaration. He proposed a trade as follows: To allow what they are keeping in the corridor as long as it’s kept clean and a wall is put up; and he will not complain about the malt containers as long as he can get in and out of his driveway; but, he wants something done about the smells and the noise and he wants Wildflower cleaned up.

___Male___ said the Condominium Association requires **Smugglers?** to keep the place really clean. It’s pretty clean now, but when you walk past it, you track grease into your condo. He also pointed out that food (malt) cannot be put outside where it will attract flies.

Mike? responded that two weeks before Christmas the County Health Department came through and commented on the fact that they keep the area so clean. He added that everybody uses the recycling (apartments, condos, etc.); and they have someone who cleans up and hoses the area every day. He noted that when the temperature was below zero, it was not possible to hose every day. He also noted that a good portion of the grease in question was from the people who lived in the apartment below Smugglers. He said those people went into the grease containers, without their permission, and pumped the grease “everywhere” for their bio-diesel vehicle. They did not clean it up. He has now put locks on it.

Judi said she just learned today that the tenants in Unit J had been using the grease. She called Elaine before the meeting; and Elaine told Judi that those tenants are not there. Judi said this is the first she’s heard that the dogs are back. She said there was an issue a while back and the dogs were removed. Section 8.04 was quoted by ___male___ with regard to animals unless they have prior, written approval of the Executive Board. If Judi does not know what is going on, she cannot respond; so, owners must let Judi know when they observe violations.

Mike? said that his employees have been warned about smoking in certain areas; if his employees or others are observed smoking in areas where they should not be smoking, then the City should be notified and the employees will be fined.

Extended discussion continued. Another male noted that he's tried unsuccessfully with three groups to get something done about the noise from the fan. He discussed code violations that exist as a result of the boilers being installed improperly and other errors.

Mike said they've tried to get approval for modifications to the building, but any modifications need to be approved by HARK and so far HARK has not approved. It was pointed out that they could get around HARK by going to City Council.

Discussion continued that the prior owner **(Carlisle?)** caused a good deal of the problems that Mike and Scott have been trying to rectify.

___Male___ said System Design (of Denver) could install a scrubber and a muffler. Another male said that in three or four attempts to find a solution, all he has been able to accomplish is a collection of bills. Nobody has been able to resolve the problem.

Leslie? said he thinks it should be Alan's responsibility to rectify the situation since he's related to the developer who built it deficiently. He also said the boilers should have been the liability of the developer also.

Suggestion was made that a lock (keyboard) be placed on the dumpster so outsiders cannot dump their garbage into it.

Judi suggested acquiring information about the cost of the possible remedies discussed at this meeting.

d. Other.

Alan was asked to look into a "water hammer" problem and other noises in the water pipes. Discussion followed.

Les and Judi were asked to review the insurance matter discussed in paragraph 7a above as the agent's responses to Les's letter were not complete. The Smuggler policy should also be reviewed to make certain that Smuggler's and the HOA were not duplicating coverage. Judi will give Mike and Scott a copy of the HOA's policy; and they will have their agent review/compare the policies and provide a quote for the whole coverage for both Smuggler's and the HOA.

Les requested that both the noise/odor problems and the insurance problems be resolved by the time he arrives in Telluride this summer.

Judi was asked to review and increase, if necessary, the frequency Peak Carpet Cleaning is cleaning up around the outside of the building to supplement the work Mike and Scott are doing in that respect.

Judi was asked to acquire copies of the leases for the rent-controlled apartments as provided in the Declaration. ___Male___ said the HOA has the right to approve or not approve the leases.

Discussion ensued about the dog in the apartment above the restaurant. It was pointed out that a verbal agreement was made some months ago that the dog in that apartment could stay. Those present were in agreement that the dog in the unit above the restaurant is old and might not live long, so will be allowed to remain; however, that dog may not be replaced upon its demise.

General discussion took place re-emphasizing previously discussed matters.

[end of side two of tape – prior to end of meeting]

There being no further business to come before the meeting, _____ **moved the meeting be adjourned.** ___ seconded. **The motion passed** and the meeting was adjourned.

Respectfully submitted,

Judi Balkind, Property Manager