

**SUMMIT YACHT CLUB CONDOMINIUMS**  
**BOARD OF DIRECTORS MEETING**  
**July 29, 2021**

**I. CALL TO ORDER**

The meeting was called to order at 3:00 p.m.

Board members present via Zoom were JC Cox, Deb Kirk, Joy Dunphey and Kate Westhuis. A quorum was present.

Representing Summit Resort Group was Kevin Lovett.

Attorney Mark Richmond from Summit Law.

**II. INTRODUCTIONS of OWNERS**

Notice of meeting was posted on the website and emailed to Owners. The following Owners were present:

- Unit #4 Mary Alice Underwood
- Unit #5 Ron and Una Von Behren
- Unit #15 Mark Westhuis
- Unit #16 Mark Westhuis
- Unit #18 Alaina Barros
- Units #19 and #20 Kim and Dylan Nicoletti
- Unit #21 Jennifer Rosely
- Unit #24 Robert Maxwell
- Unit #26 Cynthia Goda
- Unit #27 Joy Dunphey
- Unit #29 Dave Hildreth
- Unit #30 Mili Milagros
- Unit #31 Richard Trumble, John Trumble and Laura Bodner
- Unit #33 Courtney White
- Unit #34 Patti Ketchner
- Unit #36 Drew Westhuis
- Unit #39 Joanne Hunt
- Units #41 and #44 Dotti McKee
- Unit #43 Doc Hilbrecht
- Unit #47 Sam Adams
- Unit #48 Drew Westhuis
- Unit #49 Stephanie Horbatt
- Unit #50 Drew Westhuis
- Unit #51 Mark Westhuis

**III. OWNER FORUM**

The Owners Forum was held. Owners were given the opportunity to make statements.

Unit #4- Unit #4 Inquired upon status of changing management companies, voting and ROFR. JC reported that efforts are underway to obtain proposals from alternative management

companies. Mark Richmond noted that the Declarations call for 2 to 1 voting and that there was an error during the 2013 Bylaw Amendment as the Bylaws state 1 to 1 voting. Mark explained the hierarchy of Governing Documents and that the Declaration supersedes the Bylaws and therefore, all votes (with the exception of vote to amend the Bylaws) are to be conducted on the 2 to 1 basis. Mark also noted that the ROFR does not apply to existing Owners and further stated that guidelines be adopted to interpret and provide further clarity on the ROFR.

Unit #5- Unit #5 asked if the ROFR could be sent via email. It was noted that this could be discussed further and added into the clarifying guidelines.

Unit #7- Unit #7 reported on efforts of hiring a new property management company.

Unit #15- Unit #15 stated that there have been many lies told about he and his family with regard to many items. He clarified the number of units rented long term vs short term. He further stated that they have not circumvented the ROFR process as being the buyer, they have no responsibility to send out the ROFR (the ROFR responsibility is that of the seller). He recommended working together with all Owners to form an enjoyable community for all.

Unit #16- Unit #16 states that the focus of the HOA should be on Reserve planning/ funding and ensuring the building is in proper shape and structurally sound. She stated that her and her family have been unjustly attacked.

Unit #17- Unit #17 stated that she appreciates the conversation and that the Board has a lot of work to do with regard to current events. She also stated that the Board is not aware of real estate transactions.

Unit #18- Unit #18 thanked the Board for their efforts. She asked if a corporation buys a unit under ROFR, do all people in the corporation have to be Owners? She also asked what is the process if multiple Owners exercise the ROFR. She stated that she has concerns of the overall structure of the buildings and capital projects. She asked what can the Board do without Owner approval. In response, it was noted that the ROFR items could be addressed in ROFR guidelines and that the Board continues to monitor the capital plan and projects. The Board can approve capital projects, but the Board must receive Owner approvals for budget ratification and changes to Governing Documents.

Unit #19/20- Unit #19/20 presented 4 requests for consideration. With regard to Dues, do not decrease dues (even with the possible restructuring of the dues allocation, do not decrease the small unit dues, at least keep them the same with the balance contributed additionally to reserves). Create guidelines for ROFR. Pursue limiting the number of units one person / entity can own. Pursue creation of limits on STR's.

Unit #21- Unit #21 Stated that ROFR should apply to sales only, not leases, as the difference is Owners have voting power but renters do not. She asked if there were any assessments planned at this time (the answer was no).

Unit #24- Unit #24 Stated concern with regard to the voting structure. Also expressed concern with regard to conflicts of interest amongst Board members and SRG.

Unit #25- Unit #25 commented on the status of the Reserve account. He noted that the capital reserves are underfunded, and efforts have been made and should continue to be made to increase reserve funding. Additionally, he stated that expense allocations should be added to the capital reserve fund for sewer line repairs. He spoke to the petition by the group of owners wishing to remove all Board members and asked why the owners want to remove him (and even without ever talking with him)? He stated that he has an overall concern for the welfare of the HOA. He stated sympathy for the concerns of conflict of interest. He also stated that he agrees the ROFR should be sent in all circumstances. Additionally, he stated that, while he has no evidence of nor believes that any conflict exists, he agrees the “optics” are bad and that SRG should disclose all contracts with owners in which SRG manages their rental. Also believes that there is benefit to having the HOA manager also manage rentals.

Unit #26- Unit #26 stated that clarifying guidelines to the ROFR would help, such as in the instance of when there are multiple Owners exercising. Additionally, she would like to make sure the HOA is keeping up on maintenance and repair. She also stated that the addition of a lock on the trash dumpster and or cameras would help deter the abuse of the trash dumpster area.

Unit #27- Unit #27 stated that she was glad to see the good attendance at this meeting and that communication is key when you have a problem, please come to the Board to discuss it. She supports removal of the ROFR. She also stated that there is no conflict, the Board and Management are honest and dislike these accusations. She noted that up until recently, Summit Yacht Club was a happy community.

Unit #29- Unit #29 stated that he does not like the potential conflicts and SRG should not contract with Board members for services. He noted that trash usage was a concern. He also noted that living at Summit Yacht Club feels like living in a hotel. He stated that he was not looking to replace all of the Board members or SRG.

Unit #30- Unit #30 stated that she agrees with unit #29 remarks. She requested that Board meetings be held later in the evening so that she could attend.

Unit #31- Unit #31 recommended that a committee be established to look into Declaration changes and the ROFR and study what other HOA’s have done. They also stated that they support funding the reserve account properly while avoiding special assessments and ensuring that the building is safe.

Unit #33- Unit #33 stated that the reserves are underfunded and funding should be increased to the reserves. He recommended cutting out the emotions, separating fact from feeling and look at building community. He thanked SRG for quick responses and thanked the Board for their efforts.

Unit #34- Unit #34 stated agreement with unit #33 statements. She thanked SRG and the Board and encouraged everyone to “look forward” and get past the accusations, work together as a community. She recommended putting policies in place, remove the ROFR and concentrate on capital projects.

Unit #39- Unit #39 stated that the ROFR is not racists and that she would like to buy another unit and rent it out. She propose that Kate resign from the Board. She asked where do the Board members stand on limiting the number of units a person can buy and also asked where the Board members stand on the number of votes each unit should get.

Unit #41/44- Unit #41/44 stated that she has a fear of 1 entity buying up units and being threatened by investment companies. She suggests that in order to protect the other Owners she would like to see a cap on the number of units one entity can own. She said that the HOA is spending too much money on the management company.

Unit #43- Unit #43 stated that there is a possible monopoly and your going to lose your property and that there should be a limit on the number of units a person can own.

Unit #47- Unit #47 stated that each of the items (ROFR, STR cap, Ownership Cap) could be added with amendments, and recommended that each item is looked at separately. He also stated a concern with the votes, cannot have a 1 to 1 vote while have 2 to 1 dues. The ROFR is antiquated and detracts from values. He stated that he uses SRG to manage the rental of his unit and sees this as a plus as communications to tenants are timely.

Unit #49- Unit #49 paused for a moment of silence for passed Owners, thanked God for the beautiful meeting and stated that she was grateful for the Board, Owners and Management Company. She would like to hold a block party to foster community. She would like to be aware of when units sell. She also stated that she supports addition of security cameras at the property and supports maintain the building.

#### **IV. APPROVE PREVIOUS MEETING MINUTES**

Upon review, the minutes from the June 9, 2021 Board meeting were approved.

#### **V. FINANCIAL REPORT**

The Financial report was included in the meeting packet as follows.

##### Year to date financials:

July 2021 close financials report \$16,241 in Operating and \$75,567 in Reserves.

#### **VI. ACTIONS VIA EMAIL**

The following actions via email were included in the packet:

- 6-11-21 ROFR question email to owners, approved to send
- 6-28-21 Unit 15 remodel request, approved

#### **VII. OLD BUSINESS**

The following Old Business items were discussed:

A. Historical review; A brief historical review of the Governing Documents was included in the meeting packet:

- Declarations; The Declarations in place today are the original Declarations.
- The Declarations state voting and dues based on 2:1 interest

- The Board and Owners are aware that dues collection historically has not been in accordance with the Declarations. This has been acknowledged, resulting in the formation of the Dues and Voting Committee in which every owner had the opportunity to participate.

- Bylaws; The Bylaws were amended in 2013.

- There was an error in 2013 bylaw amendment stating 1 vote per unit which contradicts the Declarations. This has been acknowledged and discussion has taken place to correct the error (again, formation of Dues and Voting Committee). It was noted that the Declarations supersede Bylaws.

B. Dues Allocation Discussion; The Board and Owners discussed the dues allocations. As previously noted, it was again noted that many years ago the Board/ Owners adjusted the manner in which dues were billed to Owners which was in conflict with what the Declaration calls for. This has been acknowledged, and a committee was formed to review and investigate options. The Board thanked the Dues Committee for their hard work. After discussion of options available to proceed, Jim Margolis moved to collect dues on a 2 to 1 basis for all expenses (to include Reserves and Insurance) and to bill Comcast on an equal 1 to 1 basis due to the language in the Comcast Contract stating the per unit expense billed; Deb Kirk seconds. Discussion ensued; the majority of Owners on the call supported this dues allocation structure. It was noted that this may not be following the Declarations due to the Comcast expense being billed 1 to 1. Mark Richmond noted the risk as this is not following the Declarations and stated it would be safer to bill 2 to 1 for the Comcast expense as well. After discussion, the vote was called for and the above motion passed.

Option 1; proceed with dues collection as stated in the Declarations.

Option 2; hybrid options which would require declaration amendment

C. Voting Allocation Bylaw Correction; The voting allocations were discussed. It was noted that the Declarations state that the large units get 2 votes and the small units get 1 vote. The Bylaws, when amended in 2013, stated that all units get 1 vote. The Declarations supersede the Bylaws resulting in voting today is to be 2 to 1 for all items with the exception of Bylaw Amendments in which votes are to be allocated on a 1 to 1 basis. The process to amend the Bylaws is to propose the Bylaw Amendment to Owners and send to the Owners for vote. The vote can be taken in person (such as at the Annual Owner Meeting) or via written ballot. The Board preferred written ballot as this will allow for more Owner input. The Board reviewed the options of:

- Do nothing/ do not pursue Amendment to Bylaws; This will result in a voting allocation of 2 to 1 for all items requiring a vote with the exception of Amending the Bylaws, which will require a 1 to 1 vote allocation.

- Amend the Bylaws to correspond with the Declarations (2 to 1 vote allocation); This will require 26 votes in the affirmative to amend the Bylaws with votes being counted to amend the Bylaws at a 1 to 1 allocation.

- Amend the Declaration to correspond with the Declaration; This would require an amendment to the Declarations.

Upon discussion, the Board agreed to table discussion until the next meeting.

D. Right of First Refusal (ROFR); Survey results from the email questionnaire of Owners was presented. It was noted 6 units responded to the survey. The Board supported creation of clarifying guidelines. Clarifying guidelines discussed included:

- Sending out the ROFR for each sale (to include Owner to Owner sales, even when the ROFR does not apply)
- Emailing the ROFR in addition to sending via regular mail
- Clarifying “who” is responsible to send
- Establishing protocols when multiple Owners exercise the ROFR

A list of clarifying guidelines will be created, sent to Attorney for review, then to Owners for review and comment and then the Board will consider for adoption.

E. Cap on number of units owned; Placing a cap on the number of units a person or entity can own was discussed. It was noted that in order to place a cap on the number of units owned, an amendment to the Declaration is required. 67% Owner approval and 100% lender approval is required for this Amendment. Existing Owners would be grandfathered in on already completed purchases.

F. Short Term Rental cap, restrictions; Placing restrictions on short term rental (STR) units (to include the number of STR’s a person can have at Summit Yacht Club was discussed. It was noted that in order to place restrictions on STR’s, an amendment to the Declaration is required. 67% Owner approval and 100% lender approval is required for this Amendment. Questions were raised as to enforcement.

G. Declaration amendment; Due to the age of the Declarations, it is recommended that the Declaration be amended. Items that could possibly be addressed with Declaration amendment include dues structure, ROFR, cap on units owned, and rental restrictions.

## **VIII. NEW BUSINESS**

The following New Business items were discussed:

A. Special meeting; The request for a Special Meeting was discussed. It was noted that the 20% Owner request requirement was met with the July 19<sup>th</sup> additional signature submission. The Special Meeting will be held on September 18, 2021 after the annual owner meeting, via zoom. The Special Meeting will be a one agenda item meeting with a vote to remove the entire Board of Directors. An independent person will be contracted as vote counter. It was noted that a majority vote of the Owners is needed to complete the removal of the entire Board. Votes will be counted on a 2 to 1 basis as stated in the Declaration.

B. Property Management; Efforts to obtain proposals from alternate management companies are underway.

C. 2021 Annual Owner Meeting; Will be held September 18, 2021 10:00 am via zoom.

**IX. NEXT BOARD MEETING DATE**

The next Board of Directors meeting date is TBD.

**X. ADJOURNMENT**

The meeting was adjourned at 7:56 p.m.

Approved: \_\_\_\_\_10-6-21\_\_\_\_\_