

Star Valley Ranch Association
Special Board of Directors Meeting
December 5, 2018
2:00 p.m.
SVRA Cookshack

Ron Denney: Chairman – Present
Mike Blackman: Vice Chairman –Via Teleconference
Donna Thompson: Treasurer – Via Teleconference
Fran Moore: Secretary – Via Teleconference
George Toolson: Director – Present
Marsha Combe: Director – Via Teleconference
Taylor Ellis: Director – Present

Call to order: Chairman Ron Denney called the meeting to order at 2:03pm and called for the Pledge of Allegiance.

- Vice Chairman Blackman made a motion to adopt the meeting agenda.
Director Toolson seconded the motion.
Motion passed unanimously.

Chairman's Report: Chairman Ron Denney gave the following report:

In June of 2018 the Association entered a construction agreement with New Peak Construction Company for construction of a Community facility on the common areas owned by the Association.

Commencing in the summer of 2018, New Peak mobilized its crews and began construction of the Community facility with a planned completion date under the contract of June 16, 2019.

In order to pay the full costs associated with the construction of the Community facility, the Association obtained financing through the Bank of Star Valley. The mortgage was recorded with Lincoln County on July 23, 2018.

On July 24, 2018, with the construction of the Community facility well underway, Gerald Kittleson and Sara Kittleson, as Trustees of the Kittleson Revocable Trusts, and William Daley, as Trustee of the Daley Family Trust, filed a lawsuit against the Association in which they, among other things, allege that the Association is prohibited from paying for the Community Facility with general assessments collected from the Members of the Association.

Based upon the allegations in the lawsuit, The Bank of Star Valley ultimately informed the Association that it was unwilling to release funds it had previously committed until there was a satisfactory resolution to the lawsuit.

The Association then approached New Peak about potentially delaying further construction of the Community Facility until the lawsuit was resolved. New Peak informed the Association that, in exchange for payments of \$25,000 per month, it would delay its performance until the end of April 2019, and that

if performance was not reinitiated by that time, the contract would be deemed canceled and, under the contract, New Peak would be entitled to an additional payment from the Association of New Peak's profit and overhead in the amount of \$278,548.27. For a total penalty, if delayed until end of April and then cancelled, of \$403,548.27.

After being notified of the penalties and fees associated with delaying and/or canceling the contract, the Association's attorney had several conversations with the attorney from the Bank of Star Valley to try and come up with an agreement. On November 21, 2018 the Association Chairman and General Manager met with the Bank of Star Valley and attorneys. This is when additional collateral was discussed. On November 28, 2018 we received notice from the bank that they would be willing to release funds if the Association would provide collateral security for the financing. After considering various collateral owned by the Association, the Bank of Star Valley required that the Association secure its repayment obligations to the Bank of Star Valley with a collateral pledge of the Association's general assessment collections from Members.

The Association's Articles of Incorporation at Article III provide that the purposes and objectives of the Association are, among other things: (i) to improve, construct, and maintain a community club house and other community buildings, (ii) to borrow money and contract debts for such purposes and to secure the same by pledge or otherwise, (iii) to devote all monies collected from assessments for the promotion of the community welfare and to carry out the purposes of the Association, and (iv) to do everything necessary, suitable and proper to accomplish the purposes of the Association.

Moreover, the Association's Bylaws provide at Article VI, Section 2, that the purpose of assessments levied by the Association is to promote the recreation, health, safety, and welfare of the residents, and in particular, for the improvement and maintenance of Association Property. The Association's Bylaws at Article VIII, Section 1(d) further vest the Directors with the power to borrow money or to incur indebtedness for the purposes of the Association and to execute pledges as security therefore.

Pursuant to the Association's Bylaws at Article VIII Section 8 the Board held a special meeting on December 5, 2018 to consider BSV's requirement of additional security in the form of a pledge of general assessments to provide financing for the Community Clubhouse. All members of the Board were present in person or telephonically for the meeting.

The Board does not believe it would be reasonable or prudent to delay or cancel the Contract with New Peak because that action would result in leaving the construction of the Community Clubhouse partially completed and result in substantial delay and/or cancellation payments owing by the Association to New Peak. This would result in the wasting of and damage to community assets.

In order to protect and preserve the assets of the Association and the community it is necessary to continue the construction of the Community Clubhouse and therefore to agree to the Bank of Star Valley's requirement of providing additional security in the form of a pledge of the Association's general assessments up to the amount of the indebtedness.

The following is the document previously distributed to each Board Member.

Resolution Regarding Collateral Assignment of General Assessment Funds

This Resolution is made on the 5th day of December by the undersigned Directors of the Star Valley Ranch Association, a Wyoming not-for-profit corporation (the "Association"), with reference to the following recitals:

- A. In June of 2018 the Association entered a construction agreement with New Peak Construction Company ("New Peak") for construction of a Community Clubhouse facility on the common areas owned by the Association (the "Contract").
- B. Commencing in the summer of 2018, New Peak mobilized its crews and began construction of the Community Clubhouse, with a planned completion date under the Contract of June 16, 2019.
- C. In order to pay the full costs associated with the construction of the Community Clubhouse, the Association obtained financing through the Bank of Star Valley ("BSV").
- D. On July 24, 2018, with the construction of the Community Clubhouse well underway, Gerald Kittelson and Sara Kittelson, as Trustees of the Kittelson Revocable Trusts, and William Daley, as Trustee of the Daley Family Trust, filed a lawsuit against the Association in which they, among other things, allege that the Association is prohibited from paying for the Community Clubhouse with general assessments collected from the Members of the Association (the "Lawsuit").
- E. Based upon the allegations in the Lawsuit, BSV ultimately informed the Association that it was unwilling to provide the financing to which it had previously committed unless the Association provided collateral security for the financing. After considering various collateral owned by the Association, BSV required that the Association secure its repayment obligations to BSV with a collateral pledge of the Association's general assessment collections from Members.
- F. Based upon BSV's demand for additional collateral, the Association approached New Peak about potentially delaying further construction of the Community Clubhouse until the Lawsuit was resolved. New Peak informed the Association that, in exchange for payments of \$25,000 per month, it would delay its performance until the end of April of 2019, and that if performance was not reinitiated by that time, the contract would be deemed canceled and, under the Contract, New Peak would be entitled to an additional payment from the Association of New Peak's profit and overhead in the amount of \$278,548.27.

Resolution Regarding Collateral Assignment of General Assessment Funds

- G. The Association's Articles of Incorporation at Article III provide that the purposes and objectives of the Association are, among other things: (i) to improve, construct, and maintain a community club house and other community buildings, (ii) to borrow money and contract debts for such purposes and to secure the same by pledge or otherwise, (iii) to devote all monies collected from assessments for the promotion of the community welfare and to carry out the purposes of the Association, and (iv) to do everything necessary, suitable and proper to accomplish the purposes of the Association.
- H. Moreover, the Association's Bylaws provide at Article VI, Section 2, that the purpose of assessments levied by the Association is to promote the recreation, health, safety, and welfare of the residents, and in particular, for the improvement and maintenance of Association Property. The Association's Bylaws at Article VIII, Section 1(d) further vest the Directors with the power to borrow money or to incur indebtedness for the purposes of the Association and to execute pledges as security therefore.
- I. Pursuant to the Association's Bylaws at Article VIII Section 8 the Board held a special meeting on December 5, 2018 to consider BSV's requirement of additional security in the form of a pledge of general assessments to provide financing for the Community Clubhouse. All members of the Board were present in person or telephonically for the meeting.

WHEREFORE, AFTER DULY CONSIDERING THE ABOVE, THE BOARD OF THE ASSOCIATION RESOLVES AS FOLLOWS:

- 1. The Board does not believe it would be reasonable or prudent to delay or cancel the Contract with New Peak because that action would result in leaving the construction of the Community Clubhouse partially completed and result in substantial delay and/or cancelation payments owing by the Association to New Peak. This would result in the wasting of and damage to community assets.
- 2. In order to protect and preserve the assets of the Association and the community it is necessary to continue the construction of the Community Clubhouse and therefore to agree to BSV's requirement of providing additional security in the form of a pledge of the Association's general assessments up to the amount of the indebtedness.
- 3. The Board hereby authorizes Board Chair, Ron Denney, and the Treasurer of the Association, Donna Thompson, to execute all documentation reasonably required by SVB in connection with the pledge of the Association's general assessments up to the amount of the indebtedness incurred or to be incurred in connection with the construction of the Community Clubhouse.

Resolution Regarding Collateral Assignment of General Assessment Funds

Wherefore, we, constituting, all of the Board members of the Association, evidence our consent to the foregoing resolution by our signatures below.

Ronald Dayton Denney-Chairman

Wayne Michael Blackman-Vice Chairman

Donna Whittier Thompson-Treasurer

Frances Jean Moore-Secretary

George F. Toolson-Director

Marsha Ann Combe-Director

Elden Taylor Ellis-Director

Resolution Regarding Collateral Assignment of General Assessment Funds

- Chairman Denney made a motion to approve the Board Resolution Regarding Collateral Assignment of General Assessment Funds.
Director Toolson seconded the motion.
- Treasurer Thompson made an amendment to the motion to approve the Board Resolution Regarding Collateral Assignment of General Assessment Funds as written and previously distributed to all the Board Members.
Vice Chairman Blackman seconded the amended motion.
The Board voted as follows:
Chairman Denney, Aye.
Vice Chairman Blackman, Aye.
Treasurer Thompson, Aye.
Secretary Fran Moore, Aye.
Director Toolson, Aye.
Director Combe, Aye.
Director Ellis, Abstain.
Amended motion passed.

Old Business: Director Ellis asked about a variance that was submitted for a shed. It was decided that it will be discussed at the next regularly scheduled Workshop and Board Meeting.

New Business: None stated.

For the Good of the Order: None Stated.

Adjournment:

- Director Toolson made a motion to adjourn.
Director Ellis seconded the motion.
Motion passed unanimously at 2:26 pm

Chairman Ron Denney

Vice Chairman Mike Blackman

Treasurer Donna Thompson

Secretary Fran Moore

Director George Toolson

Director Marsha Combe

Director Taylor Ellis

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