

PROFESSIONAL MANAGEMENT EXPLORATION COMMITTEE RECOMMENDATION UPDATE

February 16, 2021

The Board Analysis & Decision issued July 6, 2020 was immediately protested by the Committee Chairperson. That protest has not been acknowledged by the Elk Meadows Board of Directors. Following is the reply from the chairperson for the committee to be shared with the community and made part of the permanent record of the accomplishments of the committee.

Assertions by the Elk Meadows Board of Directors are noted in black. The reply from the committee chairperson is noted in red.

BACKGROUND

As a result of the most recent Settlement and Release Agreement between Bob and Gail Sprentall and the Owners Association of Elk Meadows Estates Inc, dated 12/11/2019, the Association re-formed the Elk Meadows Professional Management Exploration Committee, adding Gail Sprentall as a member of said committee, to investigate the benefits and costs of securing an association manager and to make a recommendation to the Board of Directors in this regard.

The following is a summary of the Board's analysis of the committee's recommendation, and its decision regarding the recommendation.

1. **THANKS** to the Committee for their work in exploring the options and candidates for the role of a Professional Manager for the EMHOA community:
Belinda Chisholm – Rick Greene - Stephanie Kissner – Patti Miranda – Ginny Petrie – Gail Sprentall (chair)

2. **The RECOMMENDATION** presented to the Board was based on a proposal from Property Management of Telluride ("PM/T") with prerequisites supplied by the Chair.
The Recommendation includes the following:
 - Replace CPA with management bookkeeping services
 - Replace reliance on HOA attorney with property manager
 - Mandate to complete Governing Document revisions: review/update Policies; develop Rules
 - Mandate to replace accounting system software
 - Have manager oversee engagement of contracts: Supervise bid and contracted services, including contract details (based on Board advice)
 - Preparation for and oversee of annual meeting
 - Proactive enforcement of Covenants and Rules (monthly visits to investigate suspected violations based on words of a community liaison); initiate citations for violations
 - Interact with homeowners and service providers
 - ***REPLY FROM COMMITTEE CHAIRPERSON:***
 - *Cost savings for accounting and legal are realized via the HOA manager who is specially trained and qualified to timely handle these services. By engaging the expertise of the HOA*

- manager, especially legal fees can be avoided since timely oversight avoids expensive legal fees.*
- *There was no mandate that governing documents be revised. It has been asserted by the HOA that ongoing revisions of the current documents would be performed following community approval. The HOA manager would be a person to consult regarding tailoring the documents to the needs of the community.*
 - *There was no mandate to replace the existing accounting software. Rather, the HOA manager utilizes the same accounting system (Quickbooks) as Elk Meadows which would allow the HOA manager to properly account for operating and reserve funds which is presently not being accomplished according to Colorado law and CCIOA.*
 - *Utilization of the HOA manager's guidance in contracting, conducting the annual meeting, and proactive enforcement in cooperation with the HOA board of directors would result in smooth business operation and proper compliance with HOA rules and operating guidelines. The end result would be cost savings to the community – mostly in the form of unnecessary legal fees.*

PROPOSED COST OF SERVICE: \$30,000 per year plus

- monthly visits (\$200 per) for proactive enforcement of Covenants and Rules
- The Elk Meadows HOA has stated that they engage in proactive enforcement – therefore, suggesting that there would be additional cost for monthly visits is false.
- Governing Document revisions; Policy review; Rules review, cost TBD
- The Elk Meadows Board of Directors has the authority to make revisions to policies and rules as well as the responsibility to maintain updated and current processes. There would be no significant cost to implement this obligation.
- accounting system software, cost TBD
- It has already been stated that there would be no additional cost of accounting software. Rather, software cost would be realized by revisions to the current process of billings.

3. WHAT IS IMPORTANT TO EMHOA

- To be kept aware of CCIOA regulations and best practices
 - which currently happens through our HOA attorney whose expertise is HOA law
 - **The expertise of an HOA manager is application of HOA law for the good of the community.**
- Accounting practices and system that meet Federal, USDA, and CCIOA regulations
 - which currently happens through our CPA, USDA auditor, and system
 - **Current accounting practices ignore the requirement that reserve funds be separately budgeted and accounted for according to an annual reserve analysis.**
- Managing the business of our HOA according to our Governing Documents
 - which currently happens through our Board of Directors and Committees
 - and calendar of EMHOA Board business
 - **The history of Elk Meadows reflects the unwillingness of the EMHOA to operate properly under Colorado HOA law.**
- Maintain compliance in a neighborly manner
 - which currently happens through our Board in relationship with the community
 - **Asking community residents to enforce rules on their own neighbors is a thankless task and leads to neighborhood conflict.**

4. COST-BENEFIT HIGHLIGHTS

- Benefits of adopting this recommendation and retaining a property manager may result from being outside the EMHOA community. As stated by Anita Cody of PM/T, her role would be first and foremost, a communicator. She would be a liaison between the board and contractors, and dealing with owner complaints. Therefore the benefits may be:
 - o Objective view of contentious situations
 - o New eyes on our procedures/policies
 - o Ongoing enforcement of covenants, violation and delinquency management
 - o Keeping us aware of industry and legislative changes
 - o Help transition Boards
 - o Replacing existing CPA accounting with bookkeeping as part of PM service, thus removing budget line item of \$10,457 (using 2019 figures)
 - o Replacing HOA legal counsel for governance matters with property manager as part of PM service, thus removing budget line item of \$4,559 (using 2019 figures)

- Costs of adopting this recommendation may be:
 - o The incremental cost of a PM/T is at least \$18,600/year, assuming from one to two visits a month, the minimum cost of the service would be approximately \$146 per homeowner per year (or \$12.00 per month).
 - o This cost is falsely injected, since the Elk Meadows Board of Directors has stated that they perform this service.

Additional costs may be:

- o Replace present accounting system, software changes, and procedures, cost TBD
- o This cost is falsely injected, since the property manager interviewed indicated that the current accounting system would continue to be utilized.
- o Review, revise Governing Documents, Policies, cost TBD
- o Not a relevant cost consideration. Regular review and revision of documents is suggested to be an annual duty of the Board and can be accomplished without significant cost.
- o Create Rules (beyond CCR's and Bylaws), cost TBD
- o This is confusing. Elk Meadows has in place community rules and regulations and needs to practice proactive enforcement.

A detailed evaluation of cost recommendation follows as presented by the Committee:

- a. In 2019 (according to Elk Meadows financial statements) the utilization of an HOA manager would have replaced the following expenditures:
 - i. Accounting \$10,457
 - ii. Legal \$19,903
 - iii. Audit \$7,100
 - iv. General Office supplies \$1,058
 - v. Software (what is recorded here?) \$1,120
 - vi. Postage (1/2 of \$398) \$200
 - vii. Proper contracting for road and maintenance likely would save the HOA funds. In 2019 grading cost was \$12,360 and snow removal cost was \$18,760.
 - viii. Proper administration of reserve funds spending is critical and is not being conducted at this time.
- b. **Conclusion: Utilization of the services of an HOA manager would replace expenses totaling at least \$37,000. The response to RFP totals \$30,000 per year. The result is a**

cost savings to the community while moving forward to establishing compliance for the community of Elk Meadows.

5. KEY CONSIDERATIONS

- Do we uproot what is in place and (to the belief of many) already working well by giving up:
 - o Current CPA and HOA legal expertise, however not giving up the need for legal advice: we would still need to retain Legal Counsel in certain circumstances even if we had a 3rd party
 - o Direct – and fluid - working relationship with knowledgeable contracted services
- And assume a culture of
 - o Possibly more vigorous enforcement of Covenants; potentially with extensive Rules beyond what is in place through current CCR's and Bylaws.

6. BOARD CONCLUSION

- The Board does not believe EMHOA needs to:
 - o Update the present accounting system and procedures
 - o Change the current contracting of vendor process. PM/T does not propose an upgrade in the current process
 - o Build Rules (beyond what exist are in the CCR's, Bylaws, and currently exist) any faster than is currently happening
 - o Add to or change the existing infrastructure to manage the business of the association.

- Whether in the future it is determined that the community would benefit from the services of a PM company or not, the Board cannot recommend retaining a manager at this time, for these reasons:
 1. The recommendation and proposal do not match what the Board believes is important to EMHOA. (see cost-benefit table)
 2. Although we would benefit from being kept more apprised of CCIOA and applicable regulations and best practices for management of the business, we would not benefit from less expertise in accounting services, new software and procedures when the cost is factored in. The overall increase in the yearly budget would not result in a significant improvement to procedures already in place.
 3. The mandates stated in the recommendation (update the present accounting system and procedures, review and revise policies, add rules) are not part of what PM/T offers, except as a consultant, so there is a cost over and above the \$30,000 - \$34,000/year.

CONCLUDING REPLY FROM COMMITTEE CHAIRPERSON: THE ELK MEADOWS BOARD OF DIRECTORS IGNORED THE SUGGESTIONS OF THE COMMITTEE AND NEGLECTED TO EVEN ENGAGE IN AN INTERVIEW PRIOR TO MAKING THEIR DECISION. THIS RESULTED IN INFUSION OF INCORRECT ASSUMPTIONS AND ASSERTION OF INACCURATE SCENARIOS.

7. BOARD DECISION IS TO NOT ACT ON THE RECOMMENDATION

- The Board truly believes that

- The cost/benefit analysis does not fiscally provide a sufficient reason to adopt the recommendation, there not being sufficient of an upgrade in value to justify the expense.
- The only appreciable savings would be the cost of our CPA. With the loan balance having reached the required amount, the USDA requirement of an annual audit is no longer necessary. The financial recommendation of going to an audit every 3+ years is reasonable with a CPA. However, with a bookkeeper, more frequent auditing may be advisable.
- The Board does not believe that the majority of the membership desires to have professional management, nor pay for it.

It should be noted the EMHOA Board and community has shown a continued willingness to carry out the work of a professional property management company on a volunteer basis at no cost to the community. As and when EMHOA is at a point in its development where members want to have minimum involvement in running the HOA and would therefore vote to retain a PM company, the Board will certainly entertain the question again.