

Native Sun Resort

Minutes of Board of Directors' Meeting

Saturday - July 8, 2023

A meeting of the Board of Directors of The Native Sun Resort was held on Saturday, July 8, 2023 at 9:00 am in person at 1950 S. Ocean Blvd., Lauderdale-By-The-Sea, FL 33062 and via Zoom conference call. *[A video recording of the meeting is also available on the owner's page of the Native Sun website.]*

Call to Order. President Dave Rojohn called the meeting to order at 9:00 AM. There were 24 owners on the call.

Quorum: A quorum was present with Board members Dave Rojohn, Peter Cohen, Ralph Marcus, Michael Ohr and Nick Pappas. Also present was Anita Pearce, General Manager.

Proof of Notice of Meeting. Anita Pearce confirmed we have proof of Notice of this Meeting by mail, by email, by posting on the website and by posting conspicuously on the property on July 6, 2023.

Approval of Minutes. Ralph Marcus made a motion to approve the Minutes from the last meeting. The motion was seconded by Peter Cohen and it passed unanimously.

Old Business. No Old Business.

New Business. Dave Rojohn stated that there are 2 issues to present for the board (and board only) to vote on.

(a) **Motion to charge renters with applicable credit card fees.** Credit card fees on rentals are currently being charged to the owner. This practice is contrary to most businesses, where the fees are applied to the bill for the patron to pay if credit is used. The Native Sun should be adopting a practice more in line with outside entities, thereby adding the current rate of 4.25% to the renter's payment and freeing up same for return to the owner. Dave gave an example of the current policy - renting out your unit for \$1,600, with deductions of 20% for the Native Sun (\$320) and 4.25% for use of a credit card (\$68), leaving you with a balance of \$1,212. Under the new practice, the renter would pay the credit card fee and you would net \$1,280. Dave proposed that to coincide with our fiscal year and to make it fair for those who have already had rental transactions this year, this practice will start January 1, 2024. Dave stated that he has his 8 weeks still coming up this year, so he cannot be accused of having this in force before many of the rest of the owners, which could be construed as having an advantage as a board member.

(b) **Board vote on credit card fees.** Peter Cohen made a motion to transfer credit card fees for rentals to the renter starting 1/1/24. The motion was seconded by Michael Ohr. Nick Pappas made a motion to amend the motion to make it effective immediately. Ralph Marcus seconded the motion in order to ensure there would be discussion, and after the discussion on the amendment to the motion, the amendment to the motion failed 3:2. Dave Rojohn then called for a vote on the original motion and it passed unanimously.

(c) **Motion to approve insurance assessment.** Dave Rojohn reported that the second issue for today's meeting is the lack of funding for insurance. He said as we explained during our May 8 meeting, the renewal of our insurance coverage has skyrocketed as it has for all of Florida. In 2022, we paid \$92,700. Expecting a large increase of 68%, we budgeted \$155,510 for 2023. After a tedious search for viable companies, we are now paying \$288,921, an increase of 86% above the inflated budget figure. Data from 6 associations in Lighthouse Point, Boca, Lauderhill, Palm Beach, North Palm Beach, and Pompano showed that they experienced an increase of an average of 113% for 2023 renewals. This resulted in additional assessments of about \$150 for some of those residents. The new insurance has had to be paid with a deposit and installment plan. The attachment to the meeting notice provided some background information in advance of this meeting. Due to current projections for our cash flow situation, the Native Sun will not have funds available to make the payments due until year's end and still provide full funding for the reserves, both conditions required by Florida regulations. This necessitates an assessment of \$94 per unit-week to cover the presumed shortfall. This amount was calculated by taking the difference of the actual less budget divided by 80% of the 1785 unit-weeks, and then rounding up to the nearest dollar for easier bookkeeping. The 80% reflects our expectation for participation rate as evidenced by the current payments of the 2023 annual dues. Unlike previous assessments, the Native Sun will not absorb credit card fees for this assessment, so those paying by credit will need to pay \$98. Those not paying the insurance assessment within thirty (30) days will be considered delinquent with late fees charged similarly to current policy. The accumulation of insurance assessments will allow us to fund as many as possible of the reserve projects promised at the budget meeting that have been subject to cuts to keep us afloat. Dave added that the Board members are not going unscathed with this assessment. The Board collectively owns more than 30 weeks and will, therefore, be paying over \$3,000 for this action. (Dave said to consider that with respect to the credit card fees, if you rent out one week next year, the example of the owner having \$68 more in their pocket will almost subsidize this new assessment.)

Dave went on to say that the Board has seen legal opinions that support this action from two prestigious law firms, Becker & Poliakoff and KBR (Kaye Bender Rembaum) that specialize in condominium law. One referred to the Business Judgment Rule that states that the Board must act within the scope of its authority and in a reasonable manner, and its duties must be performed with the care and responsibility that an ordinarily prudent person would exercise under similar circumstances. The second referenced the "doctrine of necessity," where a condo must provide insurance unless it can be self-insuring (we cannot). We are proceeding with the process recommended by them for instituting the assessment, which is a duly-noticed meeting that establishes a finite amount, starts in thirty (30) days, and requires a vote of the board and not the owners. Florida Statutes also require reserve accounts to be funded and not be used for insurance payments.

Dave Rojohn briefly discussed what will happen in future years. We have learned from the State of Florida, via Senate Bill 154, that due to this insurance conundrum and additional costs incurred, the increases in assessments due to insurance premium increases do not enter into the equation for the 15% rule for budgeting increases. What this means for 2024 is that we will be budgeting for some increase in insurance as well as normal expenses, but only the normal expenses will be used to calculate the percentage increase over 2023. We will be staying within the 15% allowed for those without requiring an owner vote even though the total that includes the insurance increase may exceed 15%.

(d) **Board vote on insurance assessment.** Peter Cohen made a motion to levy an insurance assessment of \$94 per unit week, or \$98 per unit week if paying by credit card, due within thirty (30) days. Michael Ohr seconded the motion, and discussion was held on the motion. Ralph Marcus stated for the record that the actual impact on 2023 is \$120.63 per unit week, so making the assessment \$120.63 per unit week would bring our 2023 budget even, but at \$94, we will be short due to prior insurance policy premiums that were paid in 2023, creating a shortage in our cash flow, reserve funding and other operational costs. *[Ralph Marcus continued with supporting backup data, which can be viewed on the video posted on our website.]* After a very lengthy discussion on the motion, including comments from owners on the Zoom call, Dave Rojohn called the motion, and it passed unanimously.

Adjournment. There being no further business the meeting was adjourned at 9:48 AM.

Respectfully submitted,

Anita J. Pearce, General Manager and
Recording Secretary for the Meeting
The Native Sun Resort Condominium Association, Inc.