

# CONSUMER COMMITTEE MEETING

## January 20, 2020

Meeting called to Order at 10:11am EST

### In Attendance:

#### Receiver:

Brick Kane  
Val Miller  
Gary Caris  
Henry Jen  
Anita Jen, by telephone

#### Committee Members:

Lisa Daniels  
Larry Grice  
Craig Hibbert  
Shryl Kirkbride  
Linda Ozmindowski  
Jimbob Slocum  
Leslie Thomas  
Ted Wyberanec

#### FTC:

Jonathan Cohen  
Christopher Erickson  
Caroline Dorsey

### FTC Update

Jonathan Cohen updated the Committee about the trial scheduled to begin with opening arguments on the following day, Tuesday, January 21, 2020.

- The trial is expected to last 2-3 weeks.
- The FTC expects to call all three Principals, who are the only remaining Defendants.
- Peter Baker made a request to call anyone who comes to Maryland as a witness on his behalf. The FTC responded by filing a motion with the Court requesting a ruling that Mr. Baker only be allowed to call anyone who is actually in the courtroom and *willing* to testify: everyone has a right to attend and if Mr. Baker is allowed to call *any* of the spectators, it would place an undue burden on, and may prevent, attendees in Court. The FTC doesn't want anyone to think that if they are present they will be required to testify. It was also noted that anyone testifying for the defendants will be subject to cross-examination by the FTC.

- Glen Brayshaw has been making several presentations regarding Kanantik which should be considered with skepticism. While he claims they can buy everyone out, there is no knowledge of where the funds to do that would actually come from.
- The FTC is aware that some issues regarding Kanantik need to be sorted out. **IF** and when the FTC were to get control of Kanantik, the claimants there and at Sanctuary Belize would need to be kept separate, and plans would need to be made for dealing with the people and the claimants at both developments. (Kanantik would be dealt with later, and separately.)
- The FTC has been figuring out how to structure things and reviewing alternatives regarding how to get the development “back on its feet”. Sanctuary Belize is considered to have significant potential; the desired goal is to have a legitimate development and legitimate developer(s).
- Moving forward, it is necessary to have Belizean authorities involved. There has been a bumpy relationship and all parties need to work in a cooperative manner in order to reach a successful state of affairs.
- It has not yet been decided how the FTC would like the Judge and the Receiver to deal with lot purchaser contracts; that is a sticky situation with several variables.
- A big source of revenue is from lot payments due. However, there are many issues with the purchase contracts and the situation is a complicated one, making it difficult to resolve. If payments of the lot owners are reduced, the value of the Receivership would also be reduced. However, if the value of the Receivership is maximized, people will not want to pay for what they did not get. There are no easy answers; balance is important and the answer is not one of extremes – it lies somewhere in the middle. The FTC has consultants from the Bureau of Economics who are assisting in determining workable, equitable solutions for resolving many of the complicated issues.
- The FTC has no authority or influence regarding the AIBL liquidation.
- Ultimately, the Judge will be in charge of the Consumer Committee and any changes regarding their role will need to be approved by the Court; no changes are anticipated to be forthcoming at this time.
- The Judge could rule on this case from the bench; whether he does or does not, it is likely he will issue an in-depth written opinion which may take some months.
- Post-trial activities are normal, and there is the possibility of appeals. Any appeal does not prevent the Receiver from moving forward and taking actions regarding the assets. However, appeals **would prevent** distribution of assets to individuals until final resolution, although contracts could still be revised during that period. Any appeals can possibly be expedited in order to have rulings within a few months instead of many months or years; sometimes defendants will settle on appeal.
- There is no expiration on the Belize Mirror Order – both sides should have incentive to be cooperative. The land is a part of Belize, but the US has money and buyers, which are necessary for the development to succeed. There should not be a situation where one country controls the other.
- Once a final plan has been determined, the Judge is more likely to approve it in the event it has been agreed upon by both the FTC and the Receiver. It is understood that some consumers may not agree, and thus not unusual to have intervenors at the redress stage. However, it is important to note that in many instances, people have

incurred great expense in attempts to achieve results that were highly unlikely to succeed.

- The FTC will call witnesses different from those at the PI hearing, with the exception of the forensic accountant. His PI testimony regarding SBE monies has already been admitted into evidence, so his trial testimony will cover how much consumers have lost through SBE.

## **Follow-up and Updates RE:**

### **Electric Meters**

- The Beach Club electric meters are being replaced. The Receiver paid for all materials and a licensed contractor to perform the work.
- The change-out has a cost of \$17,000 BZ. Checks were issued during the 3<sup>rd</sup> week of January and work was scheduled to begin the week of January 20<sup>th</sup>.
- The multiplier will now be one, which should result in greatly reduced electrical costs.

### **Beach Club Operations by Lot Purchasers**

- Shryl Kirkbride was instrumental in starting the operation and Jimbob Slocum took on the role of on-site management. Various owners donated funds to pay necessary start-up expenses and purchase inventory.
- The originally scheduled opening date was delayed until Dec. 30<sup>th</sup>, 2019 due to unforeseen problems. Keys were missing and operators could not get into the building for preparation; upon finally gaining entrance, they found the facilities to be dirty, there was evidence of some vandalism, and the ice-maker was broken.
- One of the previous employees requested a transfer to housekeeping. BC employees are now Jesse the cook, Carlos the bartender, and their helper Nathan. Gratuities are split between all three employees. If Jessie or Carlos is unable to work, the restaurant/bar does not have service for that day.
- The hours are stipulated by Alfonso (HR):  
The restaurant is open to customers from noon-7pm on Thursday-Sunday.  
Employees work from 11am-8pm Thursday through Sunday.  
Employees also work on Mondays from 7am-5pm.
- George O. handles the BC accounting duties and was recently appointed Manager of the BC. He is always present to monitor closing, and is considered a dependable, thorough and accurate accountant.
- Elite Finishers is the license holder for the liquor and the restaurant, and a liability insurance policy has been secured.
- Because the BC will be paying for the meter use, profits will not be known until the electric bill is received.

- All receipts are run through a POS (Point of Sale) system, which allows ease and accuracy in tracking multiple operations involved in running the BC. There is always a worry about theft and unauthorized use of the facility and inventory.
- There are approximately 38 residents at the Reserve and the BC is a common meeting place.

## **Marina**

- The marina is managed by Randy and Alfonso.
- At the time of this meeting, there were 6 boats in the marina.
- Val Miller gave an update on the status of the marina deterioration:  
In November, Leslie had contacted a licensed coastal/waterway engineer with considerable ports and maritime experience, who referenced four U.S. companies that might be contacted to do a detailed marina inspection and assessment to determine what, if any, repairs can be effectively done to provide a safe structure, and then prepare a bid for same. The Receiver contacted all four companies, none of whom wanted to take on the project for various reasons.
- The Receiver located a company in Guatemala with some experience, and that company did an inspection of the marina some days prior to this meeting. The scope of the inspection is unknown, but results and a bid are expected soon.
- The trial is now underway, prompting some discussion about the possibility of an eventual future developer wanting to make their own decisions about marina type and configuration – e.g. perhaps they might want a completely different system with floating docks. That creates the concern that it could be a wasteful mistake to make a large expenditure on the marina from the Receiver funds at this time.
- The Receiver will consider any bids received and weigh the need to maintain vs. possible enhancement to maximize the value of the asset.
- It was suggested that if one specific part of the marina is bad, that part is a safety and financial liability and should therefore be closed.

## **Equestrian Center**

- Valerie Slocum has done more investigation and has been tasked with trying to locate a veterinarian who will maintain US standards for equine health.
- Although the Receiver has authorized funds for food, Valerie's investigation revealed that the grain supply was nearly depleted and all of the horses are being fed from just one bucket. There is a question about where the money is going, and food and food troughs are still needed.
- There are only 5 saddles suitable for riding. The other saddles need repair and maintenance.
- A check list of daily tasks and duties is needed.
- Currently, there are 19 horses at the Center, including three colts. The goal is to keep 8-10 and the horses have been evaluated. It was the consensus of the Committee that Henry and Val will work to now begin humanely selling or donating horses.

## **Gas Station/Mini Market**

- The Receiver has still made no progress in communicating with the current manager or finding a new one. Work is ongoing to resolve the situation.

## **Internet**

- The Receiver has reached a tentative agreement with the Vendor and expects to reach a deal and resolve the situation by March.
- The desired deal would include faster speed at the same price; however, there is a problem with back office support.
- The internet speed will be increasing from 8 megabits to 40+ megabits, and the Receiver is also hoping to increase the bandwidth.
- The Receiver cannot put up antennas because antennas are regulated. Regulations also prohibit resale of internet without a permit. The Vendor will therefore take over licensing and then be paid directly.
- The vendor will only maintain equipment up to the Reserve. The Reserve will keep local IT support to maintain equipment within the development boundaries.

## **Rental Properties**

- The beach tents are in disrepair and work is being done to prepare them for rental.

## **Re-survey of Estates Subdivision**

- The Receiver will soon be moving forward with the survey of all Estates lots in order to clarify which lots have incorrect legal descriptions.
- It is unknown at this time if those lots with incorrect legal descriptions will need new titles, or just amendments to the legal description, as is done in the US.

## **Modification of SRWR Articles of Association (AoA's)**

- The Committee expressed gratitude to Larry Grice for his extensive work on this document. The newest version contains the following changes:
  1. Text was added to cover SRWR in Receivership.
  2. All Reserve owners will be equal members of the SRWR Association.
  3. All SRWR members will have undivided interest in SRWR real estate and assets.
  4. SRWR shall retain ownership of all SRWR real estate not sold for residential use.
  5. The Design Review Group (DRG) was added and is charged with recommending changes to the Design Guidelines for construction and landscaping throughout Sanctuary Belize in order to create and sustain the appearance of a luxury resort community.
  6. All SRWR revenue is allocated prior to the calculation and levying of any general assessment upon the members.

7. Approval of actions requiring a vote of members requires a 2/3 majority of those members choosing to vote, rather than a 2/3 majority of all members. The exception to this change is that changes to the RCC&E's will still require a 2/3 majority vote of all members.
- SRWR revenue generated from sales, marina operations, horseback riding, etc. would go into a common pot to pay expenses; whatever expenses may remain would then be charged to and split among the lot owners.
  - Note the voting changes – there would be no minimum on the number of voters. It is not required for owners to vote, but as is the case with most elections, it is important for people to participate if they want to avoid decisions being made by a small minority of owners.
  - Discussion ensued regarding benefitted assessments and who would vote for those. It was thought that the DRG approval board would look at any impact the improvement, addition or change would have – if required maintenance would be added to SRWR responsibilities, then all owners would be affected and therefore allowed to vote. If the improvement, addition or change would only have an impact on specific lots, then it would be appropriate that only those specific lot owners would vote.
  - It is expected that commercial properties would be developed from contract monies and leased, with some revenue coming back into SRWR. Commercial properties should pay a usage fee to SRWR for roads, etc.
  - Committee members will review the Articles and email Larry with questions and/or suggestions as we work toward a final document.

### **Preparation of new RCC&E's for SRWR**

- A big thank you was again given to Larry Grice for his extensive work on this document. The newest version contains the following changes:
  1. Updated the document focus to Sittee River Wildlife Reserve Members. The RCC&E's of March 2016 focused on just the Sanctuary Belize residential lot owners.
  2. RCC&E's cover all of the Sittee River Wildlife Reserve, not just the Sanctuary Belize residential subdivision.
  3. All SRWR members will now have undivided interest in all of SRWR real estate and assets.
  4. Removed references to a single, pre-selected "Developer".
  5. Removed references to a Home Owners Association. SRWR is an Association of all SRWR lot owners, thus eliminating any justification for a separate and redundant association.
  6. Added text to cover SRWR in Receivership.
  7. Removed the Architectural Review Board (ARB). The SRWR Articles of Association now includes the Design Review Group (DRG), which is charged with recommending changes to the Design Guidelines for construction and landscaping throughout Sanctuary Belize in order to create and maintain the appearance of a luxury resort community.

8. All SRWR revenue is allocated prior to the calculation and levying of any general assessment upon the members.
  9. Approval of actions requiring a vote of members require a 2/3 majority of those members choosing to vote, rather than a 2/3 majority of all members. The exception to this change is that changes to the RCC&E's will still require a 2/3 majority vote of all members.
- Committee members discussed collection of monies and payment of GST in Belize. Belizean law takes priority and should be adhered to.
  - It was pointed out that Belize does not have “contractors” or a contractors license – anyone can call themselves a builder. However, builder insurance is available in Belize.
  - Committee members will review the RCC&E's and email Larry with questions and/or suggestions as we work toward a final document.

### **Transfer of Real and Personal Property and Contracts from EFB to SRWR**

- All EFB owned real and personal property contracts will be transferred to SRWR.
- The Receiver is working toward transferring contracts from EFB to SRWR.
- There is a question as to who owns the actual acreage that encompasses the Wildlife Reserve areas – the Receiver will look into that for clarification.

### **Streamlined Process For Obtaining Property Titles**

- Central Bank needs to approve approximately 90 titles before they can be processed. They want a complete list of where all lot monies were paid – CA or Belize - before they will approve any titles. This is a complicated project and the Receiver is still in the process of researching and compiling the information.

### **Status of the Reserve Development**

- The Receiver worked to obtain updated, current maps of the Reserve; most prior maps were no longer accurate and dated 2016.
- The Committee members were sent an email with an attached packet of current maps detailing the Reserve and encouraged to study these on their own. These maps were prepared for the Receiver by employees in Belize.

### **Reserve Use Permit**

- Richard Mulvania suggested the Need for a Reserve Use Permit form to be signed by all boat owners wishing to dock and/or spend time on the Reserve premises and submitted an initial draft of this document for consideration by the Receiver and the Committee.
- All boaters would be required to fill out the form at the time they check in with Randy and pay their required fee to stay and moor in the lagoon or at the marina.
- The soon-to-be required Permit has been deemed necessary because of bad behavior by a number of visiting mariners: boaters have been speeding down canals - violating no-wake zones and creating danger for manatees and

crocodiles, boaters have been rude to homeowners, and they have often ignored gratuities for BC employees.

- Authority is needed to enforce the Permit agreement, as Security would need to be called for any enforcement.
- A fee of \$10 per visit to the Beach Club would be assessed and charged to the boat owner/visitor on the POS receipt system. There was some discussion about whether that fee amount is sufficient.
- There is no opposition to the idea of the Permit, although the form submitted needs some revision, including the addition of price. The Receiver will review the revisions via email for consideration and approval.

### **Other – New Business**

- A letter from Jerry Brown, Bill Ewing and Ian Novello, Assistant Chief of Security, was sent to the Receiver requesting \$32,000 for the purchase of a cardiac monitor. They noted that an AED will be available without the requested monitor. The proposal will be reviewed by the Receiver.
- Leslie informed the Receiver that a number of lot owners have expressed concern about duplicate lot ownership and had inquired about the possibility of a list that might be published. Val Miller noted that it is appropriate to confine that information to the parties involved and due to financial privacy concerns no list will be made public. Therefore, it is hereby noted that if any lot owner is concerned about duplicate ownership of their property, they should write an email to REA, who will then research the lot in question and get back to the owner with any information they uncover. There are approximately 190 contested lots, which include any lots resold that were foreclosed on, and any lots on which developer buy-backs were not paid in full.
- When the SRWR documents referenced above are deemed complete, they will need to be voted on – the question is, will foreclosures have a vote? The Receiver said they have been working on how to handle that and other foreclosure issues for a long time, but ideas will need to be refined when the trial is completed and the Court has made a ruling.
- The Receiver noted that the silent majority is becoming smaller and more lot owners are now coming forward after receiving Receiver communications. It is hoped that when the time comes to vote, as mentioned above, there will be a good response.

**The meeting was adjourned at 3:20 pm.**