

Tierra Grande Improvement Association, Inc.
Via: Zoom & Telephonic
Board of Directors
October 25, 2023

CALL TO ORDER: Rhonda Davis, President, called the meeting to order at 4:00 p.m.

ROLL CALL: Sue Moran, Administrator

Directors Present: Rhonda Davis, President
Michael Sumner, Executive VP (Zoom)
Judi Magnussen, Treasurer (Zoom)
Jim Lardner, Secretary
Trenten Moore, Director

Directors Absent: None

Administration Present: George Hobbes, Accountant
Sue Moran, Administrator
Ron Robbins, IT/Operations

Guest(s): None

Audience: None

AGENDA:

Ms. Davis asked if there were any changes to the agenda.

Ms. Moran asked for the following Agenda changes:

New Business: State Property Tax Sale for Socorro County
Large Monitor Purchase
Executive Session: Legal Issue

There being no other changes to the agenda,

Motion: Motion by Ms. Magnussen, seconded by Mr. Moore to approve the Agenda of October 25, 2023, as amended. No further discussion. Unanimously approved. Motion carried.

ACTION ITEMS:

Board of Directors Meeting Minutes: Ms. Davis asked if there were any changes or corrections to the content or to the substance of the September 27, 2023, minutes. There being none:

Motion: Motion by Ms. Magnussen, seconded by Mr. Sumner to approve the Board meeting minutes of September 27, 2023, as presented. No further discussion. Unanimously approved. Motion carried.

Grant Requests: The Board reviewed two (2) grant requests - David & Andrea Tenley – solar panels: \$1,000, and David & Judy Venenga – underground water storage tank to complete grey water system - \$1,000.

Motion: Motion by Ms. Magnussen, seconded by Mr. Sumner, to approve the grant request in the amount of \$1,000 for Andrea & David Tenley. There being no further discussion, Unanimously Approved. Motion carried.

Motion: Motion by Ms. Magnussen, seconded by Mr. Moore to approve the grant request in the amount of \$1,000 for David & Judy Venenga. There being no further discussion, Unanimously Approved. Motion carried.

Investment of Funds: Ms. Moran noted that she had made an error when opening the new Treasury T-Bill approved by the TGIA Board at the September 27, 2023, Board meeting. The Board approved a 26-week T-Bill, unfortunately Ms. Moran selected a 52-week T-Bill. The Board did not feel that an amended motion was necessary.

The Board reviewed a spreadsheet of funds deposited in various TGIA accounts. A CD with NMB&T will mature on October 30, 2023. Decision was made to:

- Close out the CD and move the funds (approximately \$80,000) into the NMB&T Special Projects account.

Motion: Motion by Mr. Sumner, seconded by Mr. Lardner to approve the transfer of funds as directed. No further discussion. Unanimously Approved. Motion carried.

Solar Set/Up Installation for Well: The Board reviewed the quote from Williams Windmill for the installation of a 10,400-gallon water tank, water meter, fire-hydrant, and a solar operated pump for the approximate total of \$25,000. The Board discussed the need to secure the area around the well. The decision was to try the project on one (1) TGIA owned well and see how it goes.

Motion: Motion by Mr. Moore, seconded by Ms. Magnussen to approve the quote provided by Williams Windmill to install a solar set/up operation for one (1) TGIA owned well at this time. No further discussion. Unanimously Approved. Motion carried.

Quotes for Surveys: The Board reviewed four (4) quotes from MDN Surveying. Three (3) lots TGIA owns – the large 72-acre lot where the office / community center is proposed, a 5-acre lot where the well will be drilled by SunZia for TGIA and the other is a 5-acre lot TGIA uses for its semi-annual dumpster and clean up events. The other one (1) survey quote is for a 10-acre lot with a well that TGIA proposes to purchase from Marcland.

Discussion ensued as to whether a survey should be ordered for 144 acres of land adjoining TGIA's Open Space, TGIA may purchase from Marcland LLC.

Motion: Motion by Ms. Magnussen, seconded by Mr. Lardner to approve the four (4) quotes provided by MDN Surveying, LLC and to order a survey for the 144 acres TGIA is proposing to purchase from Marcland LLC. No further discussion. Unanimously Approved. Motion carried.

Fencing Wells / Properties: Discussion took place whether to obtain quotes for the fencing of the properties on which wells and/or solar pumps and water tanks will be placed. The decision was made to obtain quotes for the perimeter around the well facilities which would allow for easy ingress/egress. The Board recommended chain link fencing with secure gates. No action was taken at this time.

Explore the Possibility of Drilling Wells on TGIA Owned Lots: Ms. Moran reviewed with the Board an email from David Janssen of SunZia and Dave Romero of Balleau Groundwater regarding the drilling of a well on a TGIA owned lot. Ms. Moran stated that she would like to reach out to SunZia and Balleau Groundwater requesting a quote for two (2) wells for TGIA lots. One on the proposed TGIA Office and the other on another to be determined lot TGIA owns. The Board approved the request to solicit bids for two (2) wells. No action was taken at this time.

Gating Leroux Dr.: Ms. Moran reported that dumping has occurred off Leroux Dr. on the west side of HWY 47. This entrance is attractive for illegal dumping because there are no homes in the area and the land slopes downward, so it is difficult to see when dumping occurs. This is also the location where someone cut down TGIA's entrance piping. Ms. Moran requested permission to gate and lock off the entrance. This is NOT a County maintained road. Juan Sanchez grazes the area, and she will notify him of the gate. Anyone wishing to access their property using this entrance will receive the gate code. No action was necessary for this request.

Cattleguard Replacement / Donations / Roads / Permazyme:

- **Cattleguards** – In a phone conversation with TGIA's attorney Karla Poe, Ms. Moran shared that Ms. Poe stated this was little chance that TGIA would be named in any lawsuit because of an incident where a cow escaped across a County maintained cattleguard on to a highway. The owner of the cow would be the first defendant and the County would be the second defendant. TGIA would have limited liability.
- **Donations to County** – Ms. Poe shared that she did not believe it would be harmful or against any rules if TGIA donated funds to the County to offset road improvements in the TGIA community. Ms. Poe recommended that an MOU between TGIA and the County be agreed upon before any donation is made.
- **Road Maintenance Obligations** – The Board reviewed a letter from our attorneys at that time dated October 23, 1978. The letter stated that a maximum of 10% of annual dues be used for road maintenance. The letter went on to state that no assessment funds should be used on roads that had been accepted for maintenance by the County road department.
- **Permazyme** – Ms. Moran shared that that after a rainfall, Manzanita, particularly turns into a mud pit. If TGIA funds are available and the County agrees that a test of the Permazyme product be approved for the area of Manzanita Dr. that is most damaged after a rain.

The Board discussed that the legal opinion dated October 23, 1978, was specific to the use assessment revenue/dues. However, it is TGIA's plan to use revenue received and saved from projects such as Western Spirit, SunZia and Rio Sol for discretionary spending such as entrance beautification.

No decision will be made until the MOU (Memorandum of Understanding) between the County and TGIA has been reviewed and approved.

Authorization to Sign for Property Purchase: The proposed purchase of Marcland property(s) is expected to close on Wednesday, November 15th at Fidelity National Title in Los Lunas. A Board member will need to attend the closing unless the Board authorizes Ms. Moran to sign as a representative of the Association. Ms. Moran informed the Board that funds for the closing of the property need to be done by wire transfer, no checks.

Motion: Motion by Mr. Sumner, seconded by Ms. Magnussen to authorize Ms. Moran to sign on behalf of the Tierra Grande Improvement Association and authorized funds to be withdrawn from the Special Projects Account held at NMB&T for the purchase of property(s) from Marcland, LLC. Unanimously Approved.

Rebranding TGIA: Ms. Moran shared the redesign of TGIA's letterhead. The letterhead matches the billboard design approved by the Board. Ms. Moran proposed to update TGIA's billing statements, business cards, other TGIA documents, plus the TGIA office door entrance, website, and other materials as applicable. The Board approved the proposal and did not feel Board action was necessary.

FINANCIAL REPORT(s) – The Financial Report for the period ending September 30, 2023, was reviewed.

There being no discussion, Ms. Magnussen recommended that the Financial Statements for the period ending September 30, 2023, be placed in the record for audit or review.

OLD BUSINESS -

Budget Categories: Ms. Moran shared that she would like to redesign the 2024 CASH Budget to break out Assessment/Dues Revenue and those recurring operating expenses vs. other revenue / savings and discretionary expenses. This revised format will help the Board ensure that TGIA is operating within its Assessment revenue.

Fire Station / Inform Committee & Membership: Ms. Moran noted that since the City of Rio Communities has been notified that the State Fire Marshall did not approve the new TGIA fire station as proposed. Therefore, TGIA withdrew its offer to partner with the City to build a fire station. The City was informed that TGIA's direction at this point is wildland fire prevention. Ms. Moran stated that it is now time to inform the TGIA Fire Station Committee and the Board agreed.

TGIA Office / Community Room – Next Step: Ms. Moran read an email from Ryan Baca, Valencia County P&Z regarding the Conditional Use Variance that was approved for the proposed fire station location. "Conditional Use #2022-014 for the property at 19 Estada Dr. is considered null and void one (1) year after the date of approval because construction has not begun per ordinance 154.057€(2)(d). No further action is required by the applicant."

This time restriction needs to be kept in mind when it comes time to consider building a TGIA office, community room, storage area at a different location within Tierra Grande. Mr. Larder asked if TGIA would be approved for another Conditional Use Variance. Ms. Moran stated that she does believe it would be approved but will do a preliminary check with the County.

The Board discussed the use of the large parcel of land TGIA owns which adjoins the current fire station to the south as the potential location of the new TGIA office / community room / storage space. Once the survey is complete, Ms. Moran will request a rural address for the location.

Indentures / Covenants / Successor in Interest to Horizon / Subsequent Developers / History:
Ms. Moran reviewed with the Board the following documents:

- **Indenture** – The Indenture, which was filed in early 1973, is the document that gives the TGIA Board the right to assess lots in TGIA. The Indenture was due to expire 40 years from the date of the recording.
 - o 2009 - TGIA reached out to the members and asked the question: Do you want TGIA to continue or to begin the process of closing our doors? Over 70% of the responding members answered that they would like TGIA to continue while over 79% indicated they would be willing to pay reasonable assessments. Based on those responses TGIA's attorneys recommended that the membership vote to amend the Protective Covenants to bring the Indenture into the Covenants.
- **Protective Covenants** – The Covenants can be and have been amended by the simple majority (50% + 1) of **OWNERS** of lots in a Unit, **not just members**. These amendments must be filed with the applicable County Clerk. To amend the Protective Covenants to include the Indenture, documents were mailed to all owners of lots in TG. In brief, the Amendment stated that the owners accepted binding their lot to continuing the assessment by moving the Indenture into the Protective Covenants. Once the simple majority was reached and the documents filed, the amendment to the Covenants bound ALL owners of that Unit to the amended protective covenant.
- **Recordings of Amendments to the Protective Covenants** – The Board reviewed a spreadsheet of the dates and number of individual notarized amendments filed with the Clerk of the applicable County. Before the Indenture was due to expire in 2013, the simple majority of every Unit EXCEPT Unit 7 had been achieved and the Protective Covenants were amended to include the Indenture.
- **Successor in Interest to Horizon / Subsequent Developer Status** – When the Federal Trade Commission broke up Horizon, the FTC required that Horizon sell its remaining 1800 plus lots in Tierra Grande to one (1) entity. That entity ended up being Weldon McKinley and partners. Their agreement with Horizon was to be exempted from paying assessments. As a result, Horizon named these buyers as “Successors in Interest to Horizon” thereby exempting them from paying assessments as long as they owned the properties.
 - o In 2006 McKinley and partners sold their holdings in TG to the New Mexico Land Company. Part of the transaction was to continue the “Successors in Interest to Horizon” designation to the New Mexico Land Company. Although per the FTC agreement transferring “Successors in Interest to Horizon” to new owners was not authorized.
 - o In 2006 Horizon released all its rights in TG to TGIA

- In 2012 the New Mexico Land Company sold its holdings to the following investors:
 - Capital Fund
 - Snowdon
 - Sleeping Indian Ranch
 - Marcland
 - Petroyates

Each of these investors was at minimum a majority owner of a Unit.

- In 2012 based on a recommendation from TGIA's legal counsel, TGIA offered "Subsequent Developer" status to the above entities with various limitations and requirements thus delaying assessment payments until such time as a property was sold or a structure placed upon a lot. Each of these entities accepted the status as presented by TGIA. The primary purpose of awarding "Subsequent Developer" status is that only paying / assessed lot owners can vote in a TGIA Board election.
- Amendments to the Protective Covenants by the Successors in Interest and/or Subsequent Developers. Since the beginning of the TG Association, the Protective Covenants have been amended by the majority of OWNERS of Units. In some cases, the amendments were done by those designated as "Successor in Interest to Horizon", while other Amendments were done by those designated as "Subsequent Developer" and yet other Amendments were accomplished by the simple majority of individual owners of a Unit. In every case, Amendments were achieved when the majority of the owners of the lands within a Unit signed and recorded an Amendment.

NEW BUSINESS -

Marcland Grazing Lease Renewal: Ms. Moran reported that Marc McKinley visited and informed her that he would NOT like to have the amount of his cattle grazing lease with TGIA increased. Mr. Sumner reminded the Board that TGIA assigned the value to the lease to cover the property tax of the areas in TG where Marcland leases. Ms. Moran expects that the property tax bills will be mailed out shortly. Mr. Sumner recommended that the lease be for one (1) year. Ms. Moran will begin to work on updating the lease.

Entrance Beautification: Ms. Moran introduced a suggestion by Ms. Davis that the entrances to TGIA be beautified. Ideas discussed were new cattleguards, solar lights, hearty plants. Ms. Moran noted that land on the outside of the fence line is owned by the State while land on the inside of the fence line is owned by private landowners. Thus, any improvements must be made within the road easements and will require approval and partnership with the County.

State Tax Sale: Mr. Robbins presented a spreadsheet showing the nineteen (19) TG properties that were sold in a State property tax sale. There were 5 primary bidders. It was interesting that lots in Unit 5 sold for an average of \$600 / acre while lots in Unit 18 sold for an average of \$185 / acre. Mr. Robbins had an opportunity to introduce himself to most of the successful bidders. They are aware that past-due assessments are owed on the lots.

EXECUTIVE SESSION: The Board convened into Executive Session at 6:30 p.m. Items for discussion were:

- El Rio Sol – 2 Agreements (Approved by a vote of four (4) in favor (1) abstain)
- SunZia – 1 Agreement (Approved by a vote of four (4) in favor (1) abstain)
- Legal Issue – Decision was made to inform the member to have his attorney contact TGIA.

The Board re-convened back into the regular Board meeting at 6:55 p.m.

OTHER ITEMS: None

ADJOURNMENT: Ms. Davis adjourned the meeting at 7:00 p.m.

Next TGIA Board Meeting: The next meeting is scheduled for Wednesday, November 15, 2023, at 4:00 p.m.

Signature

/sdm: Minutes10/25/2023

Date Approved