



**EMBARC MEMBERS ASSOCIATION  
MINUTES OF BOARD OF DIRECTORS MEETING**

Location: Via telephone and at Diamond Resorts Canada  
The Landing, 326 – 375 Water Street, Vancouver, B.C.  
Vancouver, B.C. V6B 5C6

Held on: July 23, 2018

Directors Present: James Orr, Maria Kalber, Konrad Kawalec, Robert Reyes, Mark Nuzzo

Invited Attendees: James McBeath – Recording Secretary  
Michael Marti (representing the Manager)

---

The meeting was open to Members via telephone.

There being a quorum present, the meeting was called to by the Chair, Robert Reyes, at 9:31a.m.

It was moved by James Orr and seconded by Mark Nuzzo to approve the Agenda for this meeting as presented. Motion passed unanimously

**AGENDA:**

1. It was moved by James Orr and seconded by Mark Nuzzo to approve the May 25, 2018 Embarc Members Association Board of Directors Meeting minutes as presented. Motion passed unanimously.
2. Approval of Forfeiture of Resort Points and Memberships of all Members in default of payment of 2017 Resort Dues

Robert Reyes summarized the forfeitures being proposed for default in payment of 2017 Resort Dues, the year over year statistics, and the increase in forfeitures over last year.

James Orr noted for the board that a taskforce has been put together to look at avenues to make memberships more valuable. The taskforce is well down the path and he hopes to have recommendations for the board soon.

Konrad Kawalec inquired as to whether the Board has any insight on why the forfeitures are increasing when the Club gained 700 new members last year.

Maria Kalber indicated that she doesn't have an answer for that today but it should be looked into, particularly how long these forfeiting members have been members.

Konrad noted that at the last meeting Mark Nuzzo commented on a change in demographics that is occurring across the industry. Konrad wondered whether this could explain why access to Club facilities seems harder as members are all trying to get into the same resorts at the same time.

Mark Nuzzo suggested that Robert Reyes should look into how long the forfeiting members have been members. Mark noted that across the US and EU, the industry is seeing an increasing in age of members, who have been long time

members. These members are finding it harder to use their membership for a variety of reasons, including from illness, income etc., and so this could explain the increase in defaults. Mark believes that there will be a continuing increase in forfeiture until there is a balance in membership ages. Mark noted that this is not something unique to Embarc.

Robert Reyes noted that the Club doesn't have records of the ages of members (unless the member has given that information).

Maria stated that last year the Club did a study looking at use. Use and age go together and age affects usage. Will be interesting to see if analysis will change year over year.

Robert asked whether the continued negativity on Facebook etc. may have some bearing on consumer confidence and continued usage.

Konrad stated that he still monitors the Club Intrust Owners Group ("CIOG") activities. They want to promote fairness but they see the declarant having an unfair advantage in club operations. That is where they are focusing. The CIOG (approx. 4000 members on facebook site), voted overwhelmingly for Chantal, but lost to Declarant vote. They see that as a scam and an unfair advantage. It is the role of the board and the taskforce to address that and to ensure that the declarant is not seen as abusing its position. Konrad doesn't think CIOG wants to denigrate the club as they all believe in it. They want to apply pressure on declarant to ensure that it creates fairness for all members.

Robert stated that he is not sure that it is productive for the CIOG to put pressure on the Declarant by posting statements on Facebook saying that the election is a scam and saying all board members are not doing anything. Robert noted that there were no concerns with the way the Club was being run prior to 2016. Robert noted that the Declarant also pays dues on all of the points that it holds so pays more dues annually than individual members, so its views are important. When an individual rates Embarc as 1 star on Facebook, it is not the board or the Declarant devaluing memberships; it is the member who posts that rating. Robert noted that the election was done in accordance with the bylaws, so is not a scam.

Konrad stated that he was elected by CIOG but due to a non-disclosure agreement and reminder that his duty as a director is to act in the best interests of the Board, he has not been able to discuss much with the CIOG. There have been a number of instances where the Board has said they would change something but hasn't, and this is causing frustration in the CIOG. Konrad stated that he feels that the way to offset these negative comments is to take on some requests of CIOG. For example, discuss the CIOG proposals for what is to go on the Board meeting agenda in open session and not in executive session, but if the board does discuss in executive session the outcome of the discussions be published in the minutes.

James Orr stated that, first and foremost, that he doesn't recall either of the non-declarant directors being asked to act in the best interest of the board, but rather it was noted that the board's duty is to act in the best interest of all members. Secondly, James stated that it is unfortunate that some members in CIOG aren't aware of the time or effort put in by the board members behind the scenes, and if that is their impression then that needs to be corrected. Thirdly, James noted that the reason for going into executive session is not so the board can make secret resolutions, but rather the discussions need to be confidential for a variety of

reasons.

Robert agreed with James and stated that neither the reason for going into executive session or what is discussed in executive session may be disclosed to the members as doing so could defeat the objective of having the discussion in executive session.

Konrad noted that he misspoke regarding acting in the best interest of the Board instead of the membership as a whole.

James Orr stated for the members in attendance via telephone that, TUG (the Timeshare Users Group) has good detail on resales in the industry as a whole. James recommends members join that group if they want more information on that.

Robert Reyes stated that the issue for reducing forfeiture is a broader discussion, and that in the interests of time, he called for a vote of the board on the resolution

It was moved by James Orr and seconded by Maria Kalber that the Board confirm the total unpaid balance owed by those members as listed in the Delinquency List presented and approve the forfeiture of resort points and memberships of all of those members as listed in the Delinquency List as presented.

Motion approved unanimously.

It was proposed that the following three agenda items dealt with in one resolution. It was moved by Konrad Kawalec, and seconded by Maria Kalber that the following three resolutions be approved:

3. The Board approved the form of Directors' resolution forfeiting Memberships and Resort Points ("Forfeiture Resolution") as presented;
4. The Board appoint Robert Reyes to certify each Forfeiture Resolution; and
5. The Board direct the Manager to mail all letters and a copy of the Forfeiture Resolution to defaulting members before August 2, 2018.

There being no discussion, the resolution was approved unanimously.

6. Approval of the memorandum clarifying Note 1 in the 2017 Audited Financial Statements

Robert Reyes noted that he had sent a written resolution to the Board to approve this earlier by unanimous resolution but as Konrad had questions, it is being brought before the meeting.

Konrad stated that the memo highlighted that there were a number of units referenced in the audited accounts that had not been transferred into the club. Konrad didn't want to sign the unanimous resolution as this is one of the reasons that he had sought clarification on previously, namely a points audit. The memo proposed didn't go into detail why this was missed and that is Konrad's issue with it.

Robert stated that the total points that are listed are correct. What KPMG was trying to do was give a way for the Club to detail what properties are in

the Trust and what properties have the potential to be added to the Trust. Therefore, this was stated in the Notes to the financial statements, but it was stated incorrectly.

Michael Marti stated that in the scope of the audit, the Manager has to disclose to the auditor all sorts of extraneous information, as the auditor cannot look at all documents. The information on this point came from the developer and KPMG relied on that, but that statement was incorrect.

Robert asked if there were any further comments or questions and whether this clarified the request for Konrad.

Konrad stated that it did and he is just trying to make sure the board is transparent. Konrad felt that this discussion occurring is better than just issuing the memo. He noted that he is aware that as a Board and a membership that there is a potential for negative publicity for admitting something wrong, which can result in bad press. But he does feel that the tone of the Board has been quite defensive in the past, which is adversarial. Konrad feels that the Board should be open and honest with membership and this discussion sets that tone better.

Robert asked for clarification from Konrad whether Konrad is indicating that the memorandum is still not correct. Robert indicated that he is not sure what more the Board can say. Robert noted that this will be posted on to the member's website.

Konrad stated that he feels the memo just makes it a minor error and has little impact on audited statements. He feels that the Board should say more clearly that in doing the audit, KPMG took information from the manager, that KPMG didn't understand the point correctly and misstated the information, but that the points listed in the financial statements are otherwise correct. Otherwise, the Board risks perpetuating the feeling that it does not disclose anything unless pressed. The memo should therefore go into more detail about why it came up and be more open and transparent.

Robert noted that in the memo it states that it has come to the attention of management and board that the note was incorrect. Robert was not sure that going into further detail adds anything, but will just bring further questions. The memo is only clarifying that the number of units in the Trust was misstated. Robert was not sure that what Konrad was suggesting brings further clarity.

James Orr asked, that of the 23,000 members how many will look at this and want great detail? James doubts that the vast majority would want further information. He noted that the audit numbers are correct and the memo is just correcting a note to the financial statements.

James Orr moved, seconded by Mark Nuzzo, that the Board approve the memorandum clarifying Note 1 in the 2017 Audited Financial Statements as presented. Votes in favour: James Orr, Maria Kalber, Robert Reyes, Mark Nuzzo; Votes against: Konrad Kawalec. Motion Approved.

7. Approval of the cost from KPMG to complete the Embarc Members Association points audit

Robert Reyes indicated to the Board that the Board has obtained a quote from KPMG to conduct this audit. Michael Marti and Robert Reyes reviewed the quote and compared the proposed cost with other points audits conducted by the Club. It was noted that while the quoted cost was higher, KPMG was proposing a 30 months points audited rather than 12 months. The comparative cost, however, was less than that for a 12 month audit.

Maria Kalber asked when the last audit was done and Robert indicated it was last done in 2015.

Konrad asked if these points audits are the same as that required by California law.

Robert advised that a points audit is done every year to comply with California law, but this audit is done from a different perspective than what is being proposed. The proposed points audit is what Konrad is looking for, as the California audit just confirms that points total is accurate, but the proposed audit will go into more detail that Konrad is looking for.

Konrad indicated that he is looking for more detail. He is looking for detail on a points per room basis. If the proposed audit is similar to the one done previously then the Board can show the members that everything is in order.

James Orr, Maria Kalber, and Robert Reyes all agreed with Konrad.

It was moved by Mark Nuzzo and seconded by James Orr that the Board approve incurring the cost to retain KPMG to complete an Embarc Members Association points audit. The motion was approved unanimously. Robert will ask KPMG to proceed with the points audit as soon as possible.

8. Embarc Members Association - Unoccupied Club space proposal from Diamond Resorts –

Discussion was had on a proposal from Diamond Resorts to be able to rent out unoccupied Club space.

Robert Reyes advised that pursuant to section 5.11 of the Club's Master Declaration, if no member has reserved occupancy at a Resort Accommodation fourteen days prior to an occupancy date, then the Manager may offer the unreserved accommodation to the general public and the rental proceeds received after deduction of the Manager's fee shall be paid either to the Declarant or the Club, at the Declarant's direction.

Diamond Resorts, as Declarant, is proposing a beta test to open up unreserved space to the general public with revenues, after the Manager's fee, going to the Club. The Declarant is proposing that the manager's fee is 35% of the rental proceeds, which is common, with the remaining 65% of rental proceeds going to the Club. Robert noted that the 35% paid to the Manager covers 3<sup>rd</sup> party distribution channel commissions, marketing, advertising, and administration costs. The Manager will provide the Board with an accounting on rentals and revenue on a monthly basis.

Robert noted that this proposal would not take any accommodation away from

the Getaway program but would be implemented in conjunction with it.

Robert further noted that last year the Club had approximately 30,000 room nights unoccupied. He noted that this doesn't mesh with the member's comments that they can't get in to accommodations.

Robert noted that members often want to get into the same accommodations at same time, particularly during peak periods. This unoccupied time is all in shoulder seasons not in peak periods. As an example, in Mexico it is rainy season now, so the resort has very low occupancy. Tremblant is also not operating at 100% occupancy. Historically, for the most part these rooms simply go unoccupied.

Therefore DRI has submitted this beta test proposal to open up this space to the general public to generate revenues for the Club for this unoccupied accommodation.

James Orr asked if the board can cancel this test and remove its approval in the future. Robert advised that the Board can stop this at any time as this is just a beta test.

Konrad Kawalec stated that one thing that has been discussed in user groups, is that when the public rents space they don't have to pay for membership in the Club. So, when members see the rental of Club accommodation for about the same price as member's maintenance fees being made available to the public who hasn't incurred the costs of purchase into the club, this annoys members. Another point that members find annoying is that when they purchased they were promised a "home-like" atmosphere, but now they would be sharing with strangers/public. Also, the members have the Master Declaration, Bylaws and Club rules that they must abide by, e.g. putting out trash. However, the general public does not have to put trash out. So, therefore, the general public can use the Club as if they are a member but without investment, being tied to rules etc. Konrad feels this is not good. As such, he feels this should only be done as a revenue generation tool, not just to use up the space. That being said, some members would probably prefer this unused accommodation is not used rather than being made available to others for a cheap holiday.

Robert stated that those are all good points. Robert's response to those is that as part of the Master Declaration and Bylaws, the members can rent out their booked accommodation as they wish. Members can book a week and then rent that week to the general public. Further, the dues have already been paid by the members whether or not the week is used. Similarly, as a member the Declarant has also paid its dues and can also rent out its space.

Robert noted that the Board is aware of issues with member's and member's families not taking out the trash etc.

Another factor to consider is that having the general public stay at the Club is a form of advertisement for the club and could bring in new members.

Additionally, renting would help the Home Owner's Associations. Not allowing it is one thing, but the rental of space to the general public will not stop following that decision. Robert also pointed out that when members use Extraordinary Escapes, the Club has to monetize that and rent those points out to do so.

James Orr indicated he agrees with Robert. James noted that when members use II, the II exchange member is not a Club member but uses the Club accommodations. James agrees that it is also a good opportunity to sell the Club. He also indicated that he is not sure that opening up for bookings 14 days in advance is really going to increase the general public usage but it will help to reduce fees. James doesn't see that this would impact ability of members to access accommodations during peak periods.

Mark Nuzzo noted that this is an area that is sometimes very emotional. Some members may want Embarc to be a private club, but to do so would mean the Club would need to ban all rentals and resort dues would triple. Mark believes that bookings only 14 days out will not result in a large number of bookings.

Robert Reyes stated that as this is a declarant and manager proposal only James Orr and Konrad Kawalec should be voting.

Konrad asked how long this beta test be on for.

Robert stated that for the test to be meaningful, it would need to run through October/November to see the results when occupancy is generally low. So Robert suggests a 6 months' test. This would also allow time for the Club to collect comments from the general public users.

Konrad asked that this test should be reviewed at the January board meeting.

James Orr stated his agreement and that he would support this on a 6 month trial basis.

Robert noted that there is a meeting scheduled in January so the Board can do the review then.

Konrad stated that on that basis and with James Orr's concurrence, he is in agreement with a 6 month trial.

The motion to approve a 6 month trial of the unoccupied space rental proposal by DRI, with a Board review at the January board meeting was approved. James Orr and Konrad Kawalec voting in favour. Mark Nuzzo, Maria Kalber and Robert Reyes abstaining.

There being no further business, it was moved by James Orr and seconded by Konrad Kawalec to adjourn the meeting. Motion unanimously approved.

The meeting was adjourned 10:41am.