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Entered on Docket  
September 09, 2011

Hon. Bruce A. Markell  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

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In re:	)	Case No.: BK-S-10-10464-BAM
	)	
LAS VEGAS MONORAIL COMPANY,	)	Chapter 11
	)	
Debtor.	)	
	)	Date: September 16, 2011
	)	Time: 9:30 a.m.
	)	Courtroom: 3

**ORDER REGARDING UPCOMING CONFIRMATION HEARING**

As previously set forth in the court's Order Approving Adequacy of Disclosure Statement to Accompany Debtor's Third Amended Plan of Reorganization and Setting Hearing on Confirmation of Plan, Dkt. No. 886, a confirmation hearing will be held in the above-captioned bankruptcy case on September 16, 2011 at 9:30 a.m.

The court has concerns about feasibility, among other things. In particular, the court has concerns as to: whether Debtor will likely obtain financing, financing without which, as Debtor indicates in its Disclosure Statement to Accompany Debtor's Third Amended Plan of Reorganization, Dkt. No. 886, Ex. 1 at 90, Debtor will be unable to satisfy debt obligations and meet CapEx needs; what steps, if any, Debtor has taken, or plans to take, in assessing the terms pursuant to which it may obtain such financing; and how, if at all, the rights and obligations arising out of any potential financing agreements fit into Debtor's most current proposed plan. *See, e.g., Save Our Springs (S.O.S.) Alliance, Inc. v. WSI (II)-COS, LLC*, 632 F.3d 168, 173 (5th Cir. 2011) (affirming

1 denial of plan confirmation where debtor offered evidence of voluntary donations and oral pledges,  
2 not firm commitments); *In re Repurchase Corp.*, 332 B.R. 336, 343 (Bankr. N.D. Ill. 2005)  
3 (uncorroborated testimony of contributing source for needed capital and prospective sharing  
4 agreements was mere speculation and wishful thinking); *In re Made in Detroit, Inc.*, 299 B.R. 170,  
5 180 (Bankr. E.D. Mich. 2003) (denying confirmation where proposed financing was based on  
6 contingencies, at best conditional, and thus, not feasible); *In re Atrium High Point Ltd. P'ship*, 189  
7 B.R. 599, 610 (Bankr. M.D.N.C. 1995) (debtor's plan to obtain refinancing was speculative where  
8 industry standard was to refinance 75%-80% of the value of the property, which amount would be  
9 insufficient to meet plan obligations); *In re Haardt*, 65 B.R. 697, 702 (Bankr. E.D. Penn. 1986)  
10 (finding no reasonable chance of refinancing where debtor offered no credible evidence as to why it  
11 had been unable to obtain refinancing during the two years since filing bankruptcy, no evidence as to  
12 the value of the properties, and no evidence as to its general financial situation and prospects).

13 At the confirmation hearing, counsel should be prepared to address the court's concerns with  
14 admissible evidence that demonstrates Debtor's Third Amended Plan of Reorganization, Dkt. No.  
15 870, satisfies 11 U.S.C. § 1129(a)(11), that is, that "[c]onfirmation of the plan is not likely to be  
16 followed by the liquidation, or the need for further financial reorganization, of the debtor or any  
17 successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the  
18 plan." 11 U.S.C. § 1129(a)(11).

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20 **IT IS SO ORDERED.**  
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Entered on Docket  
November 01, 2011

Hon. Bruce A. Markell  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

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In re:	)	Case No.: BK-S-10-10464-BAM
	)	
LAS VEGAS MONORAIL COMPANY,	)	Chapter 11
	)	
Debtor.	)	
	)	Date: November 14, 2011
	)	Time: 10:00 a.m.
	)	Courtroom: 3

**ORDER REGARDING PLAN FEASIBILITY**

A confirmation hearing will be held in the above-captioned bankruptcy case on **November 14, 2011 at 10:00 a.m.**, in the Foley Federal Building, 300 Las Vegas Boulevard South, Las Vegas, Nevada, in Courtroom 3 before Judge Bruce A. Markell.

In its Order Regarding Upcoming Confirmation Hearing, Dkt No. 927, the court expressed its concerns about the feasibility of the Debtor's Third Amended Plan of Reorganization, Dkt. No. 870. In the order, the court noted these issues in particular: whether Debtor will likely obtain future financing, financing without which, as Debtor indicates in its Disclosure Statement to Accompany Debtor's Third Amended Plan of Reorganization, Dkt. No. 886, Ex. 1 at 90, Debtor will be unable to satisfy debt obligations and meet CapEx needs; what steps, if any, Debtor has taken, or plans to take, in assessing the terms pursuant to which it may obtain such financing; and how, if at all, the rights and obligations arising out of any potential financing agreements fit into Debtor's most current proposed plan.

1 The court raised these questions due to the emphasis existing case law places on their  
2 answers. *See, e.g., Save Our Springs (S.O.S.) Alliance, Inc. v. WSI (II)-COS, LLC*, 632 F.3d 168,  
3 173 (5th Cir. 2011) (affirming denial of plan confirmation where debtor offered evidence of  
4 voluntary donations and oral pledges, not firm commitments); *In re Repurchase Corp.*, 332 B.R.  
5 336, 343 (Bankr. N.D. Ill. 2005) (uncorroborated testimony of contributing source for needed capital  
6 and prospective sharing agreements was mere speculation and wishful thinking); *In re Made in*  
7 *Detroit, Inc.*, 299 B.R. 170, 180 (Bankr. E.D. Mich. 2003) (denying confirmation where proposed  
8 financing was based on contingencies, at best conditional, and thus, not feasible); *In re Atrium High*  
9 *Point Ltd. P'ship*, 189 B.R. 599, 610 (Bankr. M.D.N.C. 1995) (debtor's plan to obtain refinancing  
10 was speculative where industry standard was to refinance 75%-80% of the value of the property,  
11 which amount would be insufficient to meet plan obligations); *In re Haardt*, 65 B.R. 697, 702  
12 (Bankr. E.D. Penn. 1986) (finding no reasonable chance of refinancing where debtor offered no  
13 credible evidence as to why it had been unable to obtain refinancing during the two years since filing  
14 bankruptcy, no evidence as to the value of the properties, and no evidence as to its general financial  
15 situation and prospects).

16 Debtor has since filed a Third Amended Plan of Reorganization, as Revised, Dkt. No. 942 as  
17 well as a Third Amended Plan of Reorganization, as Further Revised, Dkt. No. 956. Neither  
18 Debtor's new plan, nor any supplement relating thereto, fully resolves the court's initial concerns.  
19 Thus, the court's repeats its previous request that, at the confirmation hearing and independent of  
20 any objections by interested parties, counsel should be prepared to address the court's concerns with  
21 admissible evidence that demonstrates Debtor's new plan satisfies 11 U.S.C. § 1129(a)(11); that is,  
22 counsel should be prepared to submit evidence sufficient to convince the court that "[c]onfirmation  
23 of the plan is not likely to be followed by the liquidation, or the need for further financial  
24 reorganization, of the debtor or any successor to the debtor under the plan . . . ." 11 U.S.C. §  
25 1129(a)(11).

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**IT IS SO ORDERED.**

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