

Minutes of the Bel Pre Recreational Association Board of Directors
23 January 2014

The meeting convened at 7:30 pm at Remax Town Center, 13415 Connecticut Ave., Silver Spring.

Present were President Elliot Chabot, Treasurer Karen Potocki, Secretary Dan Keating and members Adam Shepard, Bob Bowser, Paulette Ladas and Kye Pak. Vice President Kim Watters arrived later. Missing was Anthony Wormack. Keating kept the minutes.

The board unanimously approved the published meeting agenda 7-0. Voting in favor were Chabot, Potocki, Keating, Shepard, Bowser, Ladas and Pak.

Community members were given an opportunity to address the board. Marjorie Rosensweig, former board member and board president, encouraged the board to take further action concerning the fence built at 3200 Bustleton near her home. Rosensweig's neighbor, Fran Spar, also encouraged action by the board, saying the fence violates the community covenants and is not neighborly. Jim Rausch said that Tanie and Pierre Guirand, who built the fence at Bustleton, claimed falsely that Maryland group home rules require a privacy fence around the property. Rosensweig and Spar said that they were offended that the Guirands have accused opponents of the fence of discriminating against handicapped people.

The board unanimously approved the minutes of the meeting of 5 December 2013 7-0. Voting in favor were Chabot, Potocki, Keating, Shepard, Bowser, Ladas and Pak.

The board considered an organization plan proposed by Chabot to establish committees for Pool and Recreation Facilities, Entertainment and Recreation, Neighborhood Dispute Resolution, Finance, Government Documents and Nominating. The Nominating Committee is established in the Association bylaws for nominating candidates to the board. Included in the organizing plan were specifications that all board members or other officials of the Association must make Association records available to the Secretary or Treasurer within 15 days when requested for official business. The plan also specified that the pavilion coordinator position can be a member of the Association but does not have to be a member of the board. Chabot said the purpose of creating the committees is to allow more Association members to participate and to allow proposals to be thoroughly vetted before being presented to the board. He said the committees' actions would be advisory to the board and not binding on the board. Keating questioned whether issues would arise from giving committees responsibilities without any authority. Keating said that people or organizations that have responsibility for handling something tend to assume a position of authority in that matter. Bowser asked whether committees will be given clear mandates from the board. He cited the example of the covenant committee, which operated for more than two years but did not deliver the assistance sought by the board. Chabot said that in accordance with the bylaws, the board president would nominate membership of the committees with approval from the board. Keating moved that the organization plan be amended by removing the Pool and Recreation Facilities committee, leaving that responsibility directly with the board, and that the rest of the plan be approved. The motion was unanimously approved 7-0. Voting in

favor were Chabot, Potocki, Keating, Bowser, Ladas, Pak and Watters. Shepard abstained.

Potocki said she had contractors inspect the lights at the pool property parking lot. She said the light stands have power so the problem could be bulbs or fixtures. She said two contractors are generating price quotes for checking and repairing the lights.

The board discussed repairs needed at the pool. Keating read to the board an email from Clark Baugher of Georgetown Aquatics, the pool management company. Baugher said the baby pool needed a new pump motor and the main pool needed to have a broken skimmer replaced by the main lifeguard chair. Baugher also said the metal fence around the baby pool needs painting. Ladas offered to get estimates on doing the fence painting. Keating said he would try to get prices from Baugher for doing the pool repairs.

Agendized discussions of getting a new landscaper–lawn maintenance company and special requests to use the pool were deferred to the February meeting.

In financial matters, Chabot said the four homes still have not paid their 2013 assessments and 2 have not paid their 2012 assessments. Keating said that traditionally the board placed liens against homes that had not paid, but the federal Consumer Protection Act had imposed restrictions on bill collection activities that included even threatening to impose a lien, so the board had been awaiting consultation with its attorney over how to proceed. Keating said the board had previously been advised that in foreclosure cases a lien from the board makes no difference since homeowner debts have to be discharged for a home sale. Chabot shared with the board the annual assessment letter for 2014, which Administrative Assistant Brenda Henry will have printed, stuffed into envelopes and mailed with the carbon–copy style return form. The letter includes an appeal for volunteers for the new committees.

Shepard updated the board on additions to the board web site hosted on the Strathmore Bel Pre Civic Association site. He said Association governing documents, contracts and reports, the current budget and some major rulings of the county Council on Common Ownership Communities are now online. The site also has minutes going back several years. He said it will have a lookup so that homeowners or buyers can see exactly which Association documents are filed for their own section of the development.

Pak updated the board on the swim team. He said the team is growing and has a large developmental group of young swimmers that it hopes to keep. He said the team is financially healthy. He said the board will be kept apprised of team plans for the summer.

Pak said that as a county police detective for the past six years, he strives to keep our community up-to-date on crime problems, usually listing important events in the community email listserv run by the Civic Association. The board also discussed the need for security cameras at the swimming pool property to deal with trespassing when it is closed.

Bowser discussed getting support for the homeowner association from state and national organizations such as the Community Associations Institute and Maryland Homeowner Association Inc. He said they offer some guidance on new laws being proposed by the state legislature. But, Bowser said, the associations operate from a developer perspective and are not very useful for a small association like ours.

The board discussed pending litigation. The Maryland Court of Special Appeals ruled in BPRA's favor in the case brought by Richard and Brenda Henry. The case involved the Henry's demand that the board bring a covenant-enforcement case against their neighbors, Tanie and Pierre Guirand, over their adjoining growing fence on Breeze Hill. The Henrys could still appeal to the state's highest court. The Court of Special Appeals reviewed the matter de novo, meaning considering the issue in its entirety rather than just narrowly reviewing prior rulings. It found that the board has the authority to decide whether or not to bring a covenant-enforcement case, and that the board did not act in bad faith in handling the matter.

In the second case, the board is being sued by the Guirands because of the board's demand in September that the Guirands remove the fence they erected at 3200 Bustleton. Chabot said that the board's attorney, Thomas Schild, estimated that it could cost \$10,000 to \$12,000 to defend the suit, and another \$5,000 to \$6,000 if the board seeks a counter claim to enforce the fence-removal order. The Guirands' suit alleges that the board knows that the fence is necessary for a group home for Alzheimer patients, and the fence enforcement is discrimination against the handicapped, and also that the board is enforcing selectively, and deliberately and maliciously interfering with their business.

Chabot said the Guirands' neighbors could challenge the fence without the issue of selective enforcement being an issue. Under our Association governing documents, land-use covenants can be enforced by the board or by residents. Pak wondered whether pursuing enforcement in this case would mean bringing many more cases for other violations in the community. Watters said this case is unique because of the complaints from neighbors, as compared to other situations in the neighborhood. Chabot said a \$50 per home special assessment from 700 homes would raise \$35,000 to help pay for the suite. Keating noted that the board has \$25,000 for legal fees in the 2014 budget, which would likely be enough to handle costs for this year. Keating said the justification for bringing the enforcement action was that the fence changes the character of the neighborhood by being built so close to the property line along the entire side of the property. He said that the points being argued by the Guirands appeared to be legally weak since they have never provided any proof that the state requires a six-foot privacy fence for a group home, and the legal advice from the board's attorney indicated that prior violations would not be likely to vitiate the board's ability to take actions if the board felt the case was warranted. Keating moved that the board contest the Guirands' suit and file a counter-claim to enforce the board's fence-removal order. Chabot reiterated that he feared the expense could imperil the viability of the recreation property without a separate funding mechanism. The motion was approved 4-1 with Keating, Watters, Shepard and Bowser in favor and Chabot opposed. Ladas, Pak and Potocki abstained.

The board confirmed that it would meet at the Remax Town Center location for the meeting on February 27.

The meeting was adjourned at 10:15 pm.