

Bel Pre Recreational Association (BPRA) Board of Trustees

Minutes of Meeting of May 3, 2022

1) Call to Order and review of teleconference guidelines

In the absence of the President, Vice President Foraker called the meeting to order at 7:34 p.m. The meeting was held virtually via Zoom, with the teleconference participation guidelines in place.

2) Roll Call

Secretary Swan called the roll. Board members present were Vice President Mark Foraker, Treasurer Dave Pullen, Secretary Chris Swan, Ted Bechtol, Steve Jennison, Rodney Oo, Claire Pak, and Maria (Cookie) Stagnitto. President Purdy joined the meeting at 8:20 (during item 14(a) – Monthly Financial Statements). BPRA members Elliot Chabot (BPRA Governing Documents Committee Chair), Joe Moeller (BPRA Pool Property Helpers Coordinator), and Rita Vaught (BPRA interim Bookkeeper) were also present. There was a quorum. Secretary Swan took the minutes.

3) Approval of Agenda

Pak moved that the agenda for the meeting (previously distributed by President Purdy) be approved. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Stagnitto, and Swan in favor, and none opposed.

4) Statements by Association Members

BPRA members were invited to speak on any items. No statements from association members were made.

5) Approval of Minutes

Approval of the minutes of April 2 and April 5, 2022, were deferred to the June 7 Board meeting.

6) Facilities Use Requests by Members – pavilion

Foraker reported that a request has been received from a member to use the pavilion on Sunday, May 29, from 1:30 to 4:30 p.m. for a kid's birthday party. Thirty-five to 40 kids and parents are expected; mostly BPRA members and about 5 non-members. Pak moved that the request be approved. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Stagnitto, and Swan in favor, and none opposed.

7) Physical Facilities

Moeller reviewed the list of paint and repair work proposed to be done by Professional Painting & Remodeling (Juan Carlos Mora). Moeller noted that the deposit requirement contained in the proposed contract exceed the statutory maximum for such work. Pullen moved that the contract be approved (subject to correcting the deposit amount) and that \$4,775 be authorized for the work. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Stagnitto, and Swan in favor, and none opposed.

8) Georgetown Aquatics contract extension/renegotiation

Deferred to the June 7 Board meeting.

9) Snack Bar plan

Oo reported that he plans to open the snack bar when the public school year ends. Oo plans to have a smaller menu, with prices similar to what they were before the COVID-19 pandemic. The hours would

be 2 to 7 for Tuesdays through Fridays (possibly 1:45 to 7 on Tuesdays and Thursdays, because of Cosmic Kids). The snack bar would be closed on Mondays. On Saturdays and Sundays, the hours would be at least 2 to 7, but could be expanded if the pool is busy.

10) Proposed Conflict of Interest Policy

Governing Documents Committee Chair Chabot presented the Conflict of Interest Policy recommendations of the Governing Documents Committee (see attachment 1 of these minutes). The Board discussed the recommendations, particularly the requirement to disclose (on the community website) the affiliations of members of the Board. Swan moved that the Board adopt the Committee's recommendations. The motion was seconded and approved, with Bechtol, Pak, Pullen, Stagnitto, and Swan in favor, and Foraker, Jennison, and Oo opposed.

11) Proposed Waiver of Liability (amendment to Recreational Facilities Policy)

Chabot presented the waiver of liability recommendations of the Governing Documents Committee (see attachment 2 of these minutes). Pak moved to adopt the Committee's recommendation. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Stagnitto, and Swan in favor, and none opposed.

12) Audits/Financial Review

Audit Coordinator Foraker reported that he and Oo are in the process of setting up a consultation with a CPA to discuss options.

13) Insurance Coverage

Treasurer Pullen reported that the quote for commercial liability coverage from Nationwide has increased by \$400 over last year. He noted that such increases are across the board, not just for the Association. Pullen also reported that Article XIV, § 9 of the BPRA By-Laws requires that officers, and anyone else responsible for receiving and depositing funds on behalf of the Association, must be bonded for no less than \$40,000. Additionally, Section 11B-111.6 of the Maryland Homeowners Association Act requires that all HOAs have a fiduciary bond of at least the amount of all current investment accounts. To be compliant with the Maryland Homeowners Association Act, the Association's current fiduciary coverage needs to be increased to at least \$450,000, as it is currently only \$25,000. Increasing the coverage will increase the Association's insurance costs by approximately \$325 per year. Renewal of the Nationwide coverage would be \$5,032 (\$4,707 for renewal, plus \$325 for fiduciary/bonding coverage).

Pullen moved that \$55 per month be authorized as a bridge for fiduciary coverage (employee dishonesty coverage) under the current liability coverage with Nationwide; and that the Board also authorize renewal of our Nationwide insurance policy, with an addition of up to \$350 for Maryland Homeowners Association Act compliance. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Stagnitto, and Swan in favor, and none opposed.

14) Budget & Finance

a. Monthly financial statements

Pullen reported that the costs for printing and sending out the 2022 assessment mailing will be split between the BPRA, the Strathmore Bel Pre Civic Association, and the Strathmore Bel Pre Dolphins Swim Team, based on the number of pages each organization used in the mailing.

Pullen also noted that because the Association is using accrual accounting, all of the members' annual dues will appear as being earned by the Association on March 1, even though not all members had actually paid as of that date.

b. Delinquent accounts/appeals

Pullen reported that the number of BPRA delinquent accounts previously reported has decreased from 103 to 54. Currently, these delinquent accounts together total approximately \$19,000. Forty-eight of the delinquent accounts are for the entire amount due; 5 of the accounts have paid the principal, but owe late fees and interest; one account owes \$25. Pullen reported that the delinquent accounts are not affecting the Association's ability to carry out its responsibilities. Pullen indicated that he would like to continue to allow members to pay their dues on-line at least through the end of May. Pullen noted that 75% of the late payers have used the on-line payment system.

c. Other items

Requests for relief from fees

Pullen reported that 6 homeowners submitted appeals after the deadline set out in the Annual Dues Collection Policy. Because they were filed too late, Pullen felt they were outside of the jurisdiction of the Assessments Assistance Committee, but were within the jurisdiction of the Board. In keeping with prior practice, Pullen did not disclose the name or address of the appellants and asked the Board to review each appeal one-by-one. The Board addressed and decided each appeal on individually, based on the facts of each appeal, and did not know (or speculate) the name of the homeowner or of the property address in question.

The first case concerned a situation where the homeowner passed away before the assessment letter was sent out, but the homeowner's family only found the letter after the payment deadline had passed. The family now is requesting relief from the late fees and collection costs. The Board discussed the request. Pak moved that the requested relief be granted. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

In a second case, the homeowner passed away after the delivery of the assessment notice. The homeowners' family knew about the dues, but does not have funds to pay them, and are requesting a complete waiver of the dues and fees. The Board discussed the request. Swan moved that no relief be granted, but that the Board reconsider the decision in September, once the home has been sold. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

In a third case, the homeowners assert that they did not receive the assessment bill and request waiver of the penalties, interest, and collection costs. The Board discussed the request. Pullen noted that the assessment letter was mailed to the correct address and reminders were communicated via *The Bugle*, the community listserv, and on the "Assessment" pages of the community website. Swan moved that no relief be granted. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

In a fourth case, the homeowners assert that no e-mail notice was received until after the deadline. The Board discussed the request. Pullen noted that the assessment letters were sent by first class mail, not by e-mail. Swan moved that no relief be granted. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

In a fifth case, the homeowners asserted that a check was timely mailed, and have provided Treasurer Pullen with a copy of a carbon-duplicate check, with a timely date and correct amount. The Board discussed the request. Pullen reported that the assessment letter was sent to all of the appropriate addresses. Pak moved that the late fee, collection costs, and interest be waived. The motion was seconded and failed, with Jennison, Pak, Stagnitto, and Swan in favor, Bechtol, Pullen, Oo, and Purdy opposed, and Foraker present. Pullen next moved that no relief be granted. The motion was seconded and failed, with Bechtol, Pullen, Oo, and Purdy in favor, Jennison, Pak, Stagnitto, and Swan opposed, and Foraker present. Further action on this case was deferred until later in the meeting.

When consideration of the fifth case was resumed, Swan moved that the late fee, collection costs, and interest be waived. The motion was seconded and failed, with Pak, Stagnitto, and Swan in favor, Bechtol, Jennison, Pullen, Oo, and Purdy opposed, and Foraker present. Next, Pullen moved no relief be granted, but that the late fee, collection costs, and interest be refunded if the check is received with a pre-April 1, 2022, postmark. The motion was seconded and approved, with Bechtol, Jennison, Pullen, Oo, and Purdy in favor, and Pak, Stagnitto, and Swan opposed, and Foraker present.

In a sixth case, the homeowners were away (due to family illnesses), and also assert that they received no notification. Stagnitto moved that no relief be granted. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

BPRA tax return

Pullen reported that Larry Vaught has prepared the Association's tax return. The draft is being reviewed by Treasurer Pullen and President Purdy. Once the tax return has been filed, the request for Internal Revenue Service approval of moving the Association's fiscal year from March 1 (to the last day of February) to the calendar year, will be filed with the IRS.

15) Committee Reports

a. Questions about reports

Pak reported that volunteers are still needed for this weekend's Spring Thing. Twelve candidates running for public office have indicated that they will be at Spring Thing.

b. Entertainment and Recreation

Foraker reported that the Strathmore Bel Pre Civic Association has requested to be able to use the pool parking lot for the annual community yard sale on Saturday, September 24, with Sunday, September 25 as the rain date. Entertainment and Recreation Committee Chair Swan moved that the Civic Association's request be approved. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

Swan moved that the pavilion be reserved on July 17, from 3:00 pm to 7 pm, for a two-hour live music performance by the Kominskis, as part of the Summer Entertainment Series. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

c. Grounds and Landscaping

Grounds and Landscaping Coordinator Bechtol reported that brush cleaning has been done along the fence line. The tree in honor of Brenda Henry has been planted; the tree matches the trees in honor of Louisa Hoar and Maury Potosky. The new tree will require watering throughout the summer.

The gardening club, organized and sponsored by the Over 60 Club, will have their second meeting this week.

Bechtol moved that up to \$600 be appropriated for fertilizer, seed, and perennial flowers. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

Bechtol recommended against spraying the ground bees on the hill by the volleyball court. The bees will normally be gone of their own accord before the pool opens and are important to maintaining the local ecology. Purdy offered to laminate a sign to be prepared by Bechtol warning anyone with a sensitivity to bees of their potential presence. Bechtol plans to write an article for the June issue of *The Bugle* on the topic.

Bechtol reported that mats have been installed under the swings. Bechtol also reported that the top rail of the pirate ship is loose and that he and Moeller will look into it before the pool opens this season. Purdy noted that as of the Board's April 2 property walk-through, the railing was fine.

16) Upcoming Meetings

a. Zoom vs. pool for June, July, August, September

Foraker asked the Board for its preference for holding the summer Board meetings virtually on Zoom, or in-person at the pool. The Board discussed various alternatives. Pullen moved that the July 12 meeting be held in-person at the pool, and that the other June through September meetings be held on Zoom. The motion was seconded and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed.

b. May 14 walk-through

Foraker asked the Board preference for whether to hold the May 14 Board property walk-through and meeting. Purdy moved that the May 14 property walk-through and Board meeting be cancelled. The motion was seconded, discussed, and approved, with Bechtol, Foraker, Jennison, Oo, Pak, Pullen, Purdy, Stagnitto, and Swan in favor, and none opposed. Purdy stated that she would announce the cancellation on the community website and on the community listserv.

17) Other Business

None.

18) Adjournment

There being no further business, the meeting was adjourned at 9:17 p.m. The next Board meeting is scheduled for Tuesday, June 7, 2022, at 7:30 p.m., by teleconference.

Respectfully submitted,

-- Chris Swan, Secretary

Attachment 1

BPRA Conflict of Interest Policy – Proposed

Background:

At the January 5, 2021, Board meeting, the Governing Documents Committee was assigned to develop a written policy on conflicts of interest. The BPRA's current practices dealing with conflicts of interest, bad faith, and similar topics are set out in:

- BPRA By-Laws, Article XII, § 3;
- Maryland Corporations and Associations Code, §§ 2-405.1 and 2-419;
- *Henry v. Guirand*, Maryland Court of Special Appeals case no. 2325, January 19, 2014; and
- *McBeth v. Fountain Hills Community Association*, Montgomery County Commission on Common Ownership Communities case no. 52-12, January 3, 2013.

Proposal:

The Governing Documents Committee recommends that the Board adopt the following policy:

BPRA Conflict of Interest Policy

§ 1. “Family” Defined

For purposes of this Policy, the “family” of a BPRA member means that member’s grandparents, parents, spouse, in-laws, siblings, children, grandchildren, tenants, and any person living in the same household as the member.

§ 2. Proposals that would personally benefit a member or their family

- (a) A member of the Board must abstain from voting on (or advocating for) any proposal that would personally benefit the Board member or any member of the Board member’s family. Likewise, a member of a committee must abstain from voting on (or advocating for) any proposal that would personally benefit the committee member or any member of the committee member’s family.
- (b) If a Board (or committee) member (or a member of their family) is compensated (other than reimbursement of out-of-pocket expenses) by an organization that has business before the Board, that Board member is to abstain from voting on items relating to that organization.

§ 3. Expenditures that would personally benefit a member or their family

When anyone has been authorized by the Board to spend BPRA funds (or to authorize the expenditure of BPRA funds), that person may not – without specific authorization from the Board – personally benefit from the expenditure (nor may members of their family).

§ 4. Disclosure of proposed personal benefit

- (a) Immediately after the agenda is approved at a meeting of the Board (or of any committee), the presiding officer shall pose the following query:

Based on the agenda just approved, or on any “new business” which a Trustee or a member intends to raise at this meeting, does any member perceive the need or intend, to declare a conflict of interest, as that term is defined in the BPRA Conflict of Interest Policy, with any item proposed for discussion or decision at this meeting?

- (b) A Board member (or a committee member) who would benefit personally (or where a member of the person’s family would benefit personally) from a proposal before the Board (or before any committee that the person is a member of) must disclose that to the Board (or committee) before action is taken by the Board (or committee) on the proposal. The disclosure should be included in the minutes of the meeting.

§ 5. Exceptions

- (a) A proposal that would benefit the entire community, but only incidentally benefits members of the Board or a committee (e.g., setting the date for the pool to open to the entire membership) is not a personal benefit to the Board or committee member (or their family).
- (b) An appointment to a position that does not receive compensation is not a personal benefit to the person being appointed.
- (c) Where the BPRA has a history of purchasing a service from a person who is not a Board member, the Association may purchase that service from a Board member (or a Board member’s family), if the amount charged the BPRA is significantly less than the amount the Association was previously paying. In that situation, the Board member must abstain from voting on the proposal, should not make the motion to accept the proposal, and should not participate in the Board’s discussion except to answer questions from other Board members.
- (d) It has been a long-standing tradition for BPRA Board members to simultaneously serve as non-compensated officers, directors, or leaders of other neighborhood non-profits that deal with the BPRA (e.g., local PTAs, the Strathmore Bel Pre Civic Association, the Strathmore Bel Pre Dolphins Swim Team, Scout Troop/Pack 763, etc.). Such affiliations, in and of themselves, do not constitute a violation of this Policy -- as long as the disclosures and recusals required by this Policy are met.

§ 6. Legal actions against the BPRA

- (a) If a Board member (or committee member) is an opposing party in a legal action against the BPRA, then that member may not attend closed meetings of the Board (or committee) where the legal action is being discussed, but they may attend open meetings. Meetings of the Board or of committees may only be closed in compliance with Maryland Homeowners Association Act § 11B-111.
- (b) Legal actions include filings in courts and complaints before administrative agencies (e.g., the Montgomery County Commission on Common Ownership Communities).

§ 7. Annual acknowledgement of the rules

No later than the January meeting of the Board, each member of the Board shall annually sign a statement that they have read and understand this Policy. Each Board member shall also disclose any position that they hold with any organization listed in § 5(d) of this Policy (whether compensated or not

compensated) and any position that the Board member holds with any company (or entity) that currently does business with the BPRA.

The Secretary will see to it that there is published on the community's website a list showing the name of each Trustee and each committee member, indicating who has (or has not) signed the current Annual BPRA Conflict of Interest Disclosure Statement, and which organizations, companies, and entities are listed on that person's Statement.

Annual BPRA Conflict of Interest Disclosure Statement

I, _____,

a member of the Board of Trustees (or a member of a committee) of the Bel Pre Recreational Association, hereby certifies that I have read and understand the BPRA's Conflict of Interest Policy.

I also certify that I hold the following positions in the following organizations and have indicated whether that position is compensated or not compensated¹:

- Parents-Teachers Association of _____ School: _____

- Strathmore Bel Pre Civic Association: _____

- Strathmore Bel Pre Dolphins Swim Team: _____

- BSA Scout Troop/Pack 763: _____

- other companies (or entities) that do business with the BPRA: _____

_____ (signature)

_____ (date)

¹ For purposes of this disclosure statement, reimbursement of out-of-pocket expenses does not constitute compensation.

Attachment 2 Waiver of Liability Proposal

Background

At its March 1, 2022, meeting, the Board declared the Recreational Facilities Policy to be reinstated, with the proviso that the Policy should reflect that users of the facilities accept the risk of COVID-19 and other hazards. The Governing Documents Committee was tasked with drafting a suitable provision for consideration by the Board. The Committee discussed the matter at its March 15 and April 21 meetings.

Section 103 of the BPRA Recreational Facilities Policy currently provides that:

All members (including children and guests) use the pool and Club facilities at their own risk. All BPRA members and their guests using the Pool and other facilities must adhere to this Policy. This Policy will be posted at the pool. Please be aware of this policy for the safety of all our members and guests.

The Summer 2021 COVID-19 rules adopted by the Board on May 15, 2021, and amended June 8, 2021 (Operating Procedures and User Rules for the Bel Pre Recreational Association Pool), provide that:

- Households must acknowledge in writing that they have read and understand the pool rules and must sign a waiver of liability before entering the pool grounds for the first time this season. This document will be posted on the website. **Please read the rules, print and sign the document, and bring it with you the first time you come to the pool.**
- ...
- Guests must acknowledge in writing that they have read and understand the pool rules and must sign a waiver of liability before entering the pool grounds for the first time this season. This document will be posted on the website. **Please have your guests read the rules, print and sign the document, and bring it with them the first time they come to the pool with you.**

The waiver of liability form used during the 2021 season provides that:

I hereby certify that I am authorized to sign this document on behalf of my entire household.

COVID-19 is extremely contagious. The Bel Pre Recreational Association (BPRA) has put in place preventative measures to reduce the spread of COVID-19; however the BPRA cannot guarantee that I and the members of my household will not become infected with COVID-19. Further, I understand that any activity in a public setting may increase my risk (and the risk of members of my household) of contracting COVID-19.

By signing this agreement, I (on behalf of myself and members of my household):

- acknowledge the contagious nature of COVID-19;
- acknowledge that I have received and read the Summer 2021 “Operating Procedures and User Rules for Bel Pre Recreational Association Pool”;
- agree that I and all members of my household will follow the Summer 2021 “Operating Procedures and User Rules for Bel Pre Recreational Association Pool” and any amendments to that document adopted by the BPRA Board of Trustees and posted at the pool;
- voluntarily assume the risk that I and the members of my household may be exposed to or be infected by COVID-19 and that such exposure may result in personal injury, illness, permanent disability, and death; and

- hereby release, covenant not to sue, discharge, and hold harmless the BPRA, its agents, representatives, [and] volunteers, from any claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or related to COVID-19, without regard to whether a COVID-19 infection occurs before, during, or after any use of the BPRA pool or surrounding property.

Proposals

The Governing Documents Committee recommends that the Board adopt the following:

1. Replace the text of § 103 of the BPRA Recreational Facilities Policy with (changes are highlighted in gray):
 - (a) All members (including children and guests) use the pool and Club facilities at their own risk. All BPRA members and their guests using the Pool or any other facilities located within the common property must adhere to this Policy and must accept this Policy as a pre-condition to their admittance. This Policy will be posted at the pool. Please be aware of this policy for the safety of all our members and guests.
 - (b) The risk mentioned in subsection (a) includes the risk of COVID-19 and other hazards. COVID-19 is extremely contagious. The BPRA cannot guarantee that users of the pool and Club facilities will not become infected with COVID-19. Additionally, any activity in a public setting may increase a person's risk of contracting COVID-19 or other infectious conditions.
2. Technical correction: In the Table of Contents of the BPRA Recreational Facilities Policy, delete "127. Assumption of risk".
3. In any waiver of liability form to be used in the 2022 season, replace:

COVID-19 is extremely contagious. The Bel Pre Recreational Association (BPRA) has put in place preventative measures to reduce the spread of COVID-19; however the BPRA cannot guarantee that I and the members of my household will not become infected with COVID-19. Further, I understand that any activity in a public setting may increase my risk (and the risk of members of my household) of contracting COVID-19.

with:

COVID-19 is extremely contagious. I acknowledge that the Bel Pre Recreational Association (BPRA) has put in place preventative measures to reduce the spread of COVID-19; however the BPRA cannot guarantee that I and the members of my household will not become infected with COVID-19. Further, I understand that any activity in a public setting may increase my risk (and the risk of members of my household) of contracting COVID-19 in any of its present or future mutations or variants.