

BPRA Committee Reports and Updates for the January 2022 BPRA Board of Trustees Meeting

These updates are distributed to the BPRA Board prior to the monthly meetings and included with the minutes.

1) Pool & Recreational Facilities Committee (Maria Stagnitto, Chair):

Joe has completed the following items in addition to Clark's winterizing.

- Put the remaining pole in the pump room.
- Installed the insulation.
- Drained the pressure washer.
- Put the heater in the pump room and set it to 50 degrees.

Joe also put boards and concrete blocks along the bottom of the double door. This is in an attempt to keep some of nature out of the room.

2) Entertainment and Recreation Committee (Chris Swan, Chair):

a. Movies on the Parking Lot (aka Drive-In Movies)

The Civic Association would like to have a drive-in movie in the Spring, date TBD.

b. Trunk or Treat

The October 30, 2021 Trunk or Treat was a success. Elizabeth Kominski coordinated the event.

c. Spring Thing

Will start planning in January.

- Need to talk with Civic Association and the Scouts about possible dates.
- COVID considerations.

3) Neighborhood Dispute Resolution Committee (Chair TBD):

There have been no issues reported this cycle.

4) Finance Committee (Dave Pullen, Chair):

a. Bookkeeper

We are exploring/pursuing a relationship with Barbara J Smith Accounting, who came to our attention via my previous conversation with a former Vice President of the MD Assoc. of Non-Profit Accountants. "Due Diligence" interviews with officers are likely during the first week of January, and if satisfactory a recommendation to the Board for retention will be made.

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b. 2021 Assessment Collections

Homeowners who have neither paid the 2021 Assessment, nor responded to any of the 3 letters sent to them seeking payment, have been referred to SCHILD LAW GROUP for collection action, per the Annual Dues Collection Policy and as authorized by the Board. **Two of these cases were closed in December, yielding payment to BPRA of \$2,269.02.**

c. Overdue Collections/Schild Law Group

A total of 10 homeowners remain within SCHILD's scope of action on behalf of BPRA (8 who owe 2021 Assessment in full; 1 who paid BPRA (after referral) the base Assessment but not any of the legal fees; 1 who has a SCHILD-approved payment plan in place. **At the December 7 meeting, the Trustees approved SCHILD's request and authorized the Treasurer to complete all paperwork necessary for SCHILF to file suit in District Court against one homeowner.** (NOT referred to SCHILD is one homeowner who owes BPRA less than \$60 of unpaid 2021 Assessment money -- paid the base Assessment but not late fees, interest, or collection costs). Further, **a 2020 delinquent account has been resolved** by payment of the full Assessment due, but no penalties, collection costs, or interest, after confirming BPRA was mailing to the wrong address.

d. Assessment Assistance Committee (no change since last report)

The one homeowner who applied for, and was granted, relief by the Assessment Assistance Committee has successfully completed the payment plan agreed to.

e. Change in BPRA Fiscal Year

The membership overwhelmingly approved the proposed Bylaw Amendment to change BPRA's fiscal year to coincide with the calendar year. Current planning is to make 2021 our "short year" -- meaning we will file a tax return using a 12/31/21 end date, so that our "new" fiscal year will begin January 1, 2022 while our "automatic" application to the IRS is processed and approved. We will work with, and rely on, Larry Vaught's guidance and expertise in wading through the IRS process.

f. Roll-out of Electronic/on-line Pool Management Services (eSoft)

The StrathmoreBelPre.org pages associated with eSoft Planner will be revised in the winter to provide additional information about assessment payment and pool check in. kp

f. Audit Coordinator (Mark Foraker)

The audit work is in process and Mark has been in contact with the auditor. All requested information for all three audit years has been submitted.

g. Finance Committee (Dave Pullen)

An early January meeting is contemplated to review and approve for recommendation to the Board changes to the Annual Dues Collection Policy for application to the FY (calendar year) 2022 Annual Assessment payment cycle.

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5) Governing Documents Committee (Elliot Chabot, Chair):

a. HOA document requests

Requests for HOA documents, etc. handled by the Chair of the Governing Documents Committee (December 2022):

1. 13832 Blair Stone Lane - status of account
2. 13832 Blair Stone Lane - front foot benefit charge
3. 13832 Blair Stone Lane - covenants governing fences and front door knockers
4. 13901 Blair Stone Lane - HOA documents
5. 14033 Breeze Hill Lane - HOA documents
6. 14033 Breeze Hill Lane - status of account
7. 2409 Dressler Lane - HOA documents
8. 2409 Dressler Lane- status of account
9. 13500 Round Tree Court - status of account

b. Documents Retention Policy (no change)

The Governing Documents Committee last met on Thursday, July 29 to work on the Documents Retention Policy. The Committee has agreed on minimum retention dates for documents (by category) and come to at least preliminary agreement on how each type of document should be stored and in what format. Further work was deferred until the final version of the Plan of Organization is completed. The Committee plans to meet early 2022 to resume working on this proposed policy.

c. Conflict of Interest rules (no change)

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 rules dealing with conflicts of interest, bad faith, and similar topics are set out in:

- *Henry v. Guirand*, Maryland Court of Special Appeals case no. 2325, January 19, 2014;
- Maryland Corporations and Associations Code, §§ 2-405.1 and 2-419; and
- BPRA By-Laws, Article XII, § 3.

These rules, as implemented by the Board in recent years can be boiled down to:

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- A member of the Board must abstain from voting on 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 any proposal that would personally benefit the committee member or any member of the committee member's family.
- A Board member should also refrain from advocating for any proposal that would personally benefit the Board member or any member of the Board member's family. Likewise, a committee member should refrain from advocating for any proposal that would personally benefit the committee member or any member of the committee member's 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).
- 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.
- 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).
- An appointment to a position that does not receive compensation is not a personal benefit to the person being appointed.
- 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 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.

Other provisions to consider:

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- Each member of the Board to annually sign a statement that they have read and understand the conflict of interest policy. [Suggested at the Board's January 5, 2021, meeting]
- If a Board member (or committee member) has initiated 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. [The Montgomery County Commission on Common Ownership Communities in *McBeth v. Fountain Hills Community Association*, CCOC case no. 52-12, January 3, 2013, recognized that HOAs have this authority.] Meetings of the Board or of committees may only be closed when they are in compliance with Maryland Homeowners Association Act § 11B-111.
- If a Board 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 should abstain from voting on those items.
- Define "family" for purposes of the Conflict of Interest Policy.
- 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 Civic Association, the Dolphins Swim Team, Scout Troop/Pack 763, and the Friends of the Aspen Hill Library). Candidates for BPRA Board positions regularly disclose these affiliations in their candidate statements in *The Bugle*. While these affiliations (as long as the positions are not financially compensated) do not reach the level where the *Henry v. Guirand* decision would require that the director recuse themselves, it may be appropriate to have these affiliations disclosed -- at least in an annual disclosure statement.

d. Covenant enforcement (updated)

Once work is done on the **Documents Retention Policy and the Conflicts of Interest Policy, and recommending adjustments to the Plan of Organization to conform to 2021 changes in the Maryland Homeowners Association Act**, the Committee plans to focus on developing a written policy on covenant enforcement. Issues to be examined include:

- Pool and Assessments Covenants vs. Land Use Covenants
- Funding covenant enforcement
- Cost of enforcement litigation
- Fairness in use of BPRA resources
- What is the level of community support for expanded covenant enforcement?
- Is traditional HOA enforcement of land use covenants adversarial?
- What is the enforcement tradition in our community?
- How does BPRA's tax status impact covenant enforcement?
- Practicality of enforcement

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- Property values and covenant enforcement
- Right of individual members to enforce by law suit
- Right of neighborhoods to amend the land use covenants
- Comparison of the Land Use Covenants in different Sections within Strathmore at Bel Pre and what is the overlap between the land use covenants and current county, state, and federal laws
 - In the 2021 session of the State Legislature, the Legislature placed restrictions on the authority of HOAs to regulate:
 - Composting - Maryland Homeowners Association Act § 11B-111.9
 - Electric vehicle charging equipment – Maryland Homeowners Association Act § 11B-111.8
 - Low-impact landscaping - Maryland Real Property Code § 2-125
 - Portable basketball apparatus - Maryland Real Property Code § 2-124
 - Other county, state, and federal laws specifically limit HOAs authority to regulate:
 - Antennas - FCC Over-the-Air Reception Devices Rule (47 C.F.R. § 1.4000)
 - Clotheslines - Maryland Real Property Code § 14-130
 - Facilities for individuals with disabilities and group homes – Fair Housing Act (42 U.S.C. § 3601, et seq.); and Fair Housing Act Regulations (24 C.F.R. part 100)
 - Family day care homes and no-impact home-based businesses – Maryland Homeowners Association Act § 11B-111.1
 - Political signs - Maryland Homeowners Association Act § 11B-111.2
 - Roof materials - Montgomery County Fire Safety Code § 22-98
 - Solar panels and other renewable energy devices – Maryland Real Property Code § 2-119(b); and Montgomery County Code § 40-3A
 - U.S. flag - Freedom to Display the American Flag Act of 2005 (4 U.S.C. § 5 nt., Pub. L. 109-243, 12 Stat. 572); and Maryland Real Property Code § 14-128
- Did Levitt & Sons intend that the BPRA enforce the Land Use Covenants?
- Who are the successors to Levitt & Sons?
- What should be BPRA's role in Land Use Covenant enforcement?
- How should the BPRA respond to individual requests for BPRA enforcement?
 - General rules
 - Complaints concerning discrimination by race, color, religion, sex, etc.
 - Accessory dwelling unit licenses
 - Duplexes and other multi-family construction

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f. Plan of Organization (updated)

1. Election Rules

The COVID Era Election Rules (§ 405 of the BPRA Plan of Organization) were originally prepared with the assumption that 3 seats would be elected each year. The rules did not take into consideration that when a vacancy occurs on the Board, that the Board temporarily fills the vacancy until the next Annual General Membership Meeting, and that if there is any remaining time on that vacancy that the General Membership elects who will fill the remainder of the vacancy. For instance, if a Board member resigns during their first year, the Board can fill the vacancy for the months remaining until the next Annual General Membership Meeting and then the General Membership would elect the person to serve for the remaining 2 years of the original term.

The Governing Documents Committee will review § 405 and make recommendations to the Board for revisions of the text. Proposed changes are likely to include:

- In § 405(h)(c)(A), replace:

contains votes for more than three candidates

with:

Contains votes for more candidates than there are seats to be filled
- In § 405(h)(xii), replace:
 - The number of provisional ballot envelopes that have not yet been counted;
 - the number of votes cast so far for the candidate who is currently in third place;
 - the number of votes cast so far for the candidate who is in fourth place; and
 - whether the number of unopened provisional ballots is less than the difference between the difference between the number of votes cast so far for the third and fourth place candidates.

If the difference between the number of votes cast so far for the third and fourth place candidates is greater than the number of unopened provisional ballots, then the unopened provisional ballot envelopes will not be counted and the Treasurer shall

- announce that even if all of the remaining unopened provisional ballots were for the 4th place candidate and none of them were for the 3rd place candidate, they would not change who was elected;
- announce that the candidates receiving the three highest vote totals are elected;

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- and announce the total votes received by each candidate, reading the list in descending order from the candidate who received the largest vote total to the candidate who received the lowest vote total.

with:

- The number of provisional ballot envelopes that have not yet been counted;
- the number of votes cast so far for the candidate who is currently in the place equal to the number of seats to be filled (e.g., if there are three seats to be filled, then this would be third place);
- the number of votes cast so far for the candidate who is in the next place (e.g., if there are three seats to be filled, this would be fourth place); and
- whether the number of unopened provisional ballots is less than the difference between the difference between the number of votes cast so far for the those two candidates.

If the difference between the number of votes cast so far for those two candidates is greater than the number of unopened provisional ballots, then the unopened provisional ballot envelopes will not be counted and the Treasurer shall:

- announce that even if all of the remaining unopened provisional ballots were for the 4th place candidate and none of them were for the 3rd place candidate, they would not change who was elected;
- announce the candidates receiving the three highest vote totals are elected for three-year terms, and (if appropriate) the length of terms for any other seats being elected;
- and announce the total votes received by each candidate, reading the list in descending order from the candidate who received the largest vote total to the candidate who received the lowest vote total.

2. Meetings by Teleconference

Since the April 2020 Board meeting, the BPRA Board of Trustees has been meeting by Zoom, based on special authority granted on March 6 and April 2, 2020, by the Montgomery County Commission on Common Ownership Communities. The CCOC granted permission to all Montgomery County homeowners' associations, condominium associations, and housing cooperatives to hold board, committee, and general membership meetings by "telephone, live streaming, or some other electronic means" during the COVID-19 pandemic.

In 2021, the State Legislature enacted § 11B-113.6 of the Maryland Homeowners Association Act, which permanently authorizes homeowners' associations to hold meetings by "telephone

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conference, video conference, or similar electronic means.” The new statute also permanently authorizes the use of balloting pretty much along the same lines as the way we held voting in the 2020 and 2021 BPRA General Membership meetings. Sometime in the next few months, the Governing Documents Committee will review the statute to see if any tweaks are needed in the BPRA Plan of Organization (or our other governing documents) to make sure we’re in full compliance with the requirements of the new statute.

At some point, the Board may want to discuss whether -- after the pandemic -- we should continue having Board and/or General Membership meetings on Zoom (or using similar technologies).

g. Special Projects (updated)

- **Continued** identifying the section number for each street address within the BPRA -- this month **added:**
 - **Bayview Court**
 - **Beacon Hollow Lane**
 - **Blazer Court**
 - **Breeze Hill Lane**
 - **Dressler Lane**

Initially, this is being used to update the “Streets within SBP” webpage.

Once all the homes in SBP have been done, the list can be used to greatly simplify the process of responding to HOA document package requests.

- History project - we now have a nearly complete set of copies of the minutes from:
 - September 19, 1966 (the first meeting of the Board of Directors) to January 22, 1976
 - January 27, 1978 to April 30, 1986
 - October 22, 1990 to December 6, 1993
 - February 22, 1999 to December 20, 2004

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- August 22, 2005 to the present (missing Board minutes for 8/2/16, 9/10/16, 3/18, 4/18 monthly meeting, and 4/18 property walk-through; and annual meetings for 2016-19)

Some of the copies of the minutes are missing attachments that are referenced in the main text of those minutes.

6) Nominating Committee Report (Mark Foraker, Chair):

Nothing to report this month.

7) Long Term Planning Committee (Karen Purdy, Chair):

No meetings currently scheduled. Next steps: find an architect to discuss bathhouse concepts and options with.

An updated 5 year plan was adopted at the October Board Meeting.

The RFP for a Reserve Study was approved at the November meeting. The RFP has been sent out to several firms. Several proposals have been received. The proposal due date is mid-December. Following that date, the proposals will be sent to the Board for review. The Board will discuss the proposals at the January Board meeting.

8) Grounds and Landscaping Report (Ted Bechtol, Chair):

Final fall cleanup is being completed by Kollins. Both roofs gutters and drains have been cleared.

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9) Tennis & Pickleball Courts Committee (Dave Pullen, Chair

The Board has approved expenditures not to exceed \$2,300 (the balance available under the original authorization for court repairs) for new signage and replacement equipment (two permanent benches, 1-2 new rollers, a broom, a new trash can for collecting waste (ball cans, etc.), and a new “display board” to be installed outside the entry gate for posting of relevant Recreational Facilities rules, tennis/pickleball rules of play, and announcements. Rollers and new signage have been purchased and are in service. We are coordinating with Joe Moeller re: selection of benches, trash can, and display board.

10) Administrative Assistant’s Report:

The Administrative Assistant's Report was not produced for the April, May, June, July, August, September, October, November, December or January meetings. There were no changes from the March report. kp

11) Pavilion Scheduler/Pool Pass Coordinator/Tennis Court Keys Distributor – (TBD):

Jim Eaton is responsible for tennis/pickleball court key distribution. Carmen Wong is the current Season Pass Coordinator. Karen Purdy has been taking care of eSoft Planner issues.

We need volunteers to take care of eSoft Planner and Pavilion Scheduling. kp

12) MapMaster Report (Paul Spelman):

Working on adding overlay to the community map to show each of the “sections” of Strathmore Bel Pre.

13) New Member Recruitment Report (Coordinator TBD)

Nothing to report. kp

14) Web Master Report (Billy Ruppert):