

BPRA Committee Reports and Updates for the February 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):

Clark and I have continued our dialogue regarding our contract for 2022. I will provide an update at the Board meeting.

Snack Bar: Rod is putting together a plan for the snack bar, including a revised menu and hours of operation. More information is forthcoming in the next few months. kp

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

a. Movies

- Proposed movie nights (first Saturday of the month - May through September): May 7, June 4, July 2, August 6, and September 3.
- The May 7 one would be a drive-in movie, in the parking lot.

b. Spring Thing

- The Spring Thing will be Saturday, May 14, from 2pm to 4pm, with a rain date of May 15.
- Maria Stagnitto and Claire Pak will chair the event.
- They have already lined up the following:
 - Paulette L. Shred-it
 - Paul Sp. Pizza
 - Tracy K. Face painting/kids activities
 - Dave P. Tennis/Pickleball clinics
 - Jan W. Over 60 club/Quilts of Valor
 - Paul St. Speakers for music if I can't arrange karaoke
 - Megan V. Games including bean toss
- Maria might have additional people/activities lined up by the Board meeting.

c. Yard Sale

- The Civic Association has decided to hold the Yard Sale in the Fall.
- Parking lot use will be requested at a later time.

d. Summer Music Concerts

- Hope to have proposed dates by the April BPRA Board meeting.
- Paulette Ladas has offered to sponsor a food truck. The Civic Association Board is considering this at one of the concerts.

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3) Neighborhood Dispute Resolution Committee (Chair TBD):

There have been no issues reported this cycle.

4) Finance Committee (Dave Pullen, Chair):

a. Bookkeeper

We have been delayed in pursuing/considering a relationship with Barbara J Smith Accounting to serve as BPRA Bookkeeper. Will report any updates verbally at the 3/1 meeting.

b. Assessment Collections

2022 Assessment payments have been received from 45% of the membership as of 2/26. Notably, to date use of online payments has increased 40% over 2021 levels.

c. Overdue Collections/Schild Law Group

A total of 9 homeowners remain within SCHILD's scope of action on behalf of BPRA (7 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. (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).

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

There are no requests for relief pending before the Assessment Assistance Committee at this time. Note that Maryland has initiated a financial assistance program for renters/homeowners delinquent in paying HOA dues (among other things). To be eligible, an applicant must document at least 15% reduction in pay (or increase in expenses). BPRA should consider amending its posting of its Collections Policy to inform homeowners of this alternative.

e. Change in BPRA Fiscal Year

Continuing to work with Larry Vaught on "short year" tax return preparation, as that is a prerequisite to formal application to change our fiscal year to align with the calendar year, as approved by the membership.

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

The StrathmoreBelPre.org pages associated with eSoft Planner have been revised. kp

f. Audit Coordinator (Mark Foraker)

No change. An update will be provided at the April meeting.

g. Finance Committee (Dave Pullen)

No meetings are planned at this time.

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

a. HOA document requests (updated)

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

1. 14016 Bethpage Lane - HOA documents
2. 3212 Birchtree Lane - HOA documents
3. 14117 Blazer Lane - status of account
4. 14117 Blazer Lane - HOA documents
5. 14117 Blazer Lane - covenant on adding to front of home
6. 2228 Deckman Lane - drafted supplemental covenant to allow new homeowner to join BPRA
7. 3013 Regina Drive - HOA documents
8. 3013 Regina Drive - status of account
9. 13913 Rippling Brook Drive - HOA documents

b. Documents Retention Policy (updated slightly)

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 in March 2022 to resume working on this proposed policy.

c. Conflict of Interest rules (no changes)

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:

- 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

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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:

- 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]

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- 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 (no changes)

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
- Property values and covenant enforcement
- Right of individual members to enforce by law suit
- Right of neighborhoods to amend the land use covenants

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- 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

f. Plan of Organization (no changes)

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

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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;
- 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:

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- 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 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.

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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:
 - Beaverwood Lane (updated information to include the Strathmore at Bel Pre Section 11 properties)
 - Birchtree Lane
 - Blazer Lane
 - Hewitt Avenue
 - Regina Drive

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
 - 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.

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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.

Reserve Study: The Board approved a proposal at the February meeting. The signed proposal/contract was sent back to the selected firm on February 22. A site visit will be scheduled in the next few weeks.

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

Tree Work: I should have a proposal for a spring project that will include winter storm damage to white pines and items from last year that were not funded, for the Board's consideration at March's meeting.

Landscape management: waiting on a proposal from Kollins for this year's service costs.

Stormwater Management: I need to follow-up with Montgomery County stormwater/rain garden staff as to site possibilities, Initial review by Ballard Engineering staff indicates expensive and limited solutions.

Commemorative trees: A date for dedication for Louisa Hoar's tree needs to be established. And locations and species need to be developed for Brenda Henry's commemorative tree.

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9) Tennis & Pickleball Courts Committee (no change from last month)

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, January, February or March meetings. There were no changes from the March 2021 report. kp

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

Jim Eaton is responsible for tennis/pickleball court key distribution. Karen Purdy has been taking care of eSoft Planner issues.

Carmen Wong has agreed to take over as Pavilion Scheduler.

We need a volunteer to take over administration of eSoft Planner. 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):