

PBPOA 04 MAR 23 Board Meeting Minutes

Location—398 Ridgfield Circle, Winchester TN 37398 (Home of At-Large Member, Mrs. Darla Gray)

Time—1100

CALL TO ORDER/OPENING REMARKS-PRESIDENT

At 1104, the PBPOA President, Mr. Wayne Acklen called the meeting to order. Board members in attendance included the President, Wayne Acklen, Vice-President, Michael Axon, Treasure-Lee Rohrer, Secretary-Michael Turok, At-Large Member #1-Steve Sobey, and At-Large Member-#2 Darla Gray. The Secretary established that a quorum existed. Additionally, 11 Association members were in attendance representing 7 properties. Motion was made, seconded, and approved to waive reading of the minutes for the December 2022 PBPOA meeting, and the minutes were approved unanimously.

TREASURER'S REPORT

Mr. Rohrer stated that the Association had \$41,993 on hand in certificates of deposit, savings, checking, and holding. Expenses year to date were listed as \$8129.10 with income from dues, stickers/passes, and earned income at \$10,452.85. Available budget funds on hand from Income vs Expenses is \$2323.75. Motion was made, seconded, and voted unanimously to accept the Treasurer's report.

During his treasurer's report, Mr. Rohrer advised that due to the extremely heavy rains, the window was missed to repair the slab. The slab is actually 120' long. Prior to the regular board meeting, the board held an email executive session to vote on the repair which was approved. Mr. Rohrer was requested to lock in the agreed to price and the repair will likely occur in the December/January timeframe when the lake is at its lowest level. As an adjunct to the concrete work, Mr. Rohrer suggested we consider adding some underwater structure away from the ramp in order to attract fish. This will be discussed at a later board meeting.

OLD BUSINESS

- **Update on Speeding Mitigation**-The Secretary stated that he is near completion of the survey and will transmit to the board for review shortly.
- **Tree maintenance plan**-Mr. O'Neal indicated that the original contractor scheduled to remove the trees was non-responsive. As a result, he contracted with Cassidy Tree Service (at the suggestion of Mrs. Beard) who completed the work including 6 large trees, 2 large trees in the dock area, 50 smaller trees resulting in a 15% increase in space around the lot. Mr. O'Neal was thanked for his efforts in clearing the lot, especially his prescience in view of the destructive winds which were observed just days later.
- **Outlot B Quit Claim Status**-The Secretary reported that he had reviewed the Quit Claim deeds and noted that there were 10 lots whose owners or previous owners have not signed quit claim deeds. He will review the correspondence from the 2014/2015-time frame and then re-engage those who had not signed.
- **Tax ID number for PBPOA/I-bond update**- Mr. Rohrer stated that he will fund an I-bond now when current CDs expire.
- **STR access issue**-The Secretary read a prepared statement (attached) which addressed the concerns regarding STR access to Outlot A. After discussion, motion was made, seconded, and

an Outlot A policy prohibiting access by STR visitors was approved by a vote of 4 yeas, 1 nay, and 1 abstention. The prohibition is effective 04 March 2023 and a sign to that effect will be posted shortly.

- **Electronic Lock for Outlot A Update**-The lock has been received and will be incorporated into the locking mechanism in the near future. There will be a limited number of keys made for those that are unable to use Bluetooth features to open the gate. The Treasurer will reimburse Mr. Revelle for the purchase.
- **Spring Work Day**-Due to the recent Tree work and clearing by Association members, the Spring Work Day has been cancelled as unnecessary. Members are invited to clean up fallen trees at their convenience if able to do so safely.
- **Website Domain Transition/PBPOA official email addresses**-The Secretary indicated that he is developing the website (which was delayed due to surgical limitations) and the Treasurer will provide the debit card number for monthly debiting of the website.
- **911 address for Outlot A**-The 911 Address commissioner advised that the Association needs a "structure" in order to receive an official address. This will be further investigated as motion was made, seconded, and approved at a previous board meeting.
- **Violations enforcement**-The Secretary advised that all boats/trailers in the lot are now registered and that there are only minor violations (e.g.-trailers on unimproved lots) that are inconsequential and don't require enforcement. The board informally agreed (no vote taken) to pursue a "hands-off" approach for the time being.

NEW BUSINESS

- **Concrete Work Finalization**-The vote was confirmed 7-0 and the discussion occurred during the Treasurer's Report above.
- **Additional Signatory for PBPOA accounts**-Motion was made, seconded, and passed by a 6-0 vote to authorize the Secretary (a permanent resident) to serve as a signatory for PBPOA accounts. The Treasurer will coordinate the appropriate paperwork with the Ascend Federal Credit Union.

CLOSE MEETING

There being no further business, motion was made, seconded, and unanimously agreed to close the meeting. The meeting was adjourned at 1246.

Respectfully Submitted:

Michael J. Turok (PBPOA Secretary)

Attachment--Remarks to the Board 04 MAR 23

At the 2016 Annual Membership meeting, 15 out of 84 property owners elected to modify the bylaws and allow access to the common area, that is, Outlot A, for guests-including short term rentals. I think it is fair to say that since such a rule change, we have witnessed an increase in disharmony in the neighborhood due to a surge in short-term rental guests demonstrating non-compliance with the rules; exhibiting rude or threatening behavior in the ramp area when property owners are trying to launch or recover their boats or, in the case of the interior lots-trying to recreate at the only shoreline they have; experiencing the inability to move our boats due to cars/trailers parked in the middle of the lot for the day; and we have seen a significant increase in noise complaints and property crimes. And, at no time have any association members been held responsible for the discourteous, unruly, and on several occasions, criminal behavior of their guests which was required by the voted on change.

We have wrangled with this as a board and there have been attempts to stir up emotions by claiming "property rights" are at risk. I personally have no animus with anyone who uses their personal property in whatever lawful manner they see fit. Indeed, I believe the survey indicated that most property owners felt this same way. But lawful manner includes compliance with our Charter-and this is not being done. As board members, we have a duty to act within the scope of authority and when we clearly have authority to act but don't uphold association member interests, it is evident that we have failed in our responsibilities as board members. In failing to act, we have also violated the law. These responsibilities take many forms but there are four considerations we have to ensure.

1. Ensure Compliance to Laws and Governing Documents-One of the main duties of HOA board members is to ensure that their association complies with federal, state, and local laws. Likewise, an HOA board must make sure that the community is following its governing documents-which is required by law. Currently our Article II, Section 5 language is in direct contravention with our original, amended and re-stated charter. Active members who rent out their properties as short term rentals and allow use of the Outlot are profiting at Association expense. Indeed, we have many examples of advertisements extolling our boat ramp and lot. Franklin County assesses a special tax on such profiting activity, but we as a board have failed to act. In other words, by allowing such profiting activities to continue, we, the board, are violating the PBPOA charter and breaking the law.

2. Maintain Common Areas-The PBPOA board is responsible for maintaining common areas such as Outlot A and part of that responsibility includes minimizing our liability. Currently the Outlot A is a liability lawsuit waiting to happen. I've previously remarked to the board as to the liability we incur without benefit of waiver from those who use it, but this has gone unheeded. Why should association members pay for upkeep of a common property while those who are responsible for the accelerated wear bear no expense? We've already seen the cost of tree removal to prevent trees from damaging association members boats and trailers—it is obvious we want to protect the assets of members in the tree case, but not so with other parts of the Outlot. The concrete work for the ramp will cost even more—this community assets have accelerated wear and tear because of the vastly increased STR traffic and we, the association members, are stuck with the bill.

3. Enforce HOA Rules and Regulations-It is the board's duty to ensure that each and every member of the community abide by the HOA rules and regulations. HOA board members must follow the provisions of their governing documents when dealing with homeowners who violate the community's rules and regulations. In this regard, we have been sorely lacking, even when violations have been brought to the board leadership for resolution. Before I was a board member, I personally brought a complaint while it was happening in the Outlot A to a board officer, but he didn't want to have a conflict and so ignored my concern.

4. Conflict Resolution-Misunderstandings, disagreements, or fights within a community cannot be avoided — whether it is between homeowners, board members, or both. In order to maintain peace and order, HOA board members must engage in conflict resolution. They should be able to mediate and resolve conflicts to avoid legal cases or the involvement of law enforcement, if possible. Right now, we have a conflict—one that

is ongoing and the can keeps getting kicked down the road, one that is not addressed soon, WILL result in legal action. We have placed the STR issue on the agenda repeatedly, only for it to be slow rolled.

Let me reiterate- the PBPOA Board of Directors is empowered by the PBPOA Bylaws to make modification to policy on guest and rental customer use of Outlot A. This is contained in the Article II - Membership section of the Bylaws.

Based on recent adverse effects to the Association and its members from short-term rental customers using Outlot A and feedback from the community, it is clear the Board needs to take action on this issue.

I move that the attached policy be considered for edits before being voted on for approval by the Board. But before we consider the proposed motion, I've thought about some probable question that may be asked, and so I want to answer those in advance:

Why do this? - Reducing outsider use of Outlot A is needed to preserve it for member use based on shared member feedback. It is also needed to reduce liability the Association assumes by allowing others to use association property.

Why do this by Board action? -Board action is how the PBPOA Bylaws are structured for a change like this to occur. It specifically indicates in the Bylaws that the Board has the authority to modify or extend privileges of use. Neighborhood feedback has been extensive to support this action. The subcommittee the Board put together on liability and short-term rentals made the recommendation to reduce access to Outlot A. Majority support at the recent Board meetings support the Board taking action. Board action to adopt the policy aligns with both the Bylaws and the Rules and Regulations documents; neither document would have to be updated.

Why do this now? -The neighborhood has already had over a year to consider and express support for this action. The Board has promised action over this time but has not acted. Now is the time to take action before the lake season begins.

Why not limit access for all renters, long term renters included? -Long term renter use is limited compared to short term rental use. The volume is much lower. Also, long term renters share the desire to maintain the quality of life in the neighborhood. This is often not shared by short term renters.

Does allowing long term renters to use Outlot A violate the 'for profit' statement in the Charter? I would argue it does not. I personally think leveraging Outlot A in advertising and operating a vacation rental business has a clearer profit motive with detriment of the neighborhood and Members of the Association than allowing long term renters in the neighborhood to access Outlot A does. We have multiple current examples of association members advertising the amenities of Outlot A as an incentive to rent.

After discussion and any minor edits, I move that the Board approve the attached policy.

Thank you.

Pine Bluff Property Owners Association (PBPOA) Policy 2023-1

Guest Use Policy for Association Property

Pursuant to the PBPOA Bylaws and Article II, Section 5, use of PBPOA property is limited to Association members and their houseguests. Houseguests are defined as non-paying friends and family staying in the neighborhood. Association members may choose to treat their renters as houseguests and provide them access to PBPOA property only if the rental agreement between member and renter is for a duration equal to or longer than three months.

This policy will be posted to the neighborhood website with the same visibility as other neighborhood documents and signage will be placed at the entrance to Outlot A which states, at a minimum, the following: "Facility use is limited to PBPOA Members and their houseguests. Access by short term rental customers constitutes trespassing and will be enforced.

This policy is approved by the PBPOA Board of Directors on March 04, 2023 and is effective immediately.