

BMPOA Monthly Board Meeting Minutes: May 8, 2023

Minutes recorded by Jackie Veasey acting Secretary

BOARD MEMBERS PRESENT: Acting President, Jim Critcher; 2d VP Jonathan Morrison; Treasurer, Mike Veasey; Directors Erica Sanatana, Harry Davis; Carl Herz and Acting for the Secretary: Jackie Veasey.

BOARD MEMBERS ABSENT: David Cook and Patrick Patton

GUESTS: Walter and Taffy Mabe

TOTAL NUMBER OF MEMBERSHIP AND GUESTS PRESENT: 6 Board Members; 2 Guests; 13 Members (Nancy Hilliard, Garrett McNamara, Marc Nelson, Kristina Nelson, Cathy Jo Cook, Morgan Fox, Brian Elder, Donna Gray, Janet Wildeman, Jim Cook, Billy Orndorff, Toni Magro, Jackie Veasey)

ITEMS OF DISCUSSION: President introduction; April 2023 BMPOA Board minutes approval; nominating committee report; financial report; roads report; recreation report; committee updates.

PRESIDENT CALL TO ORDER/OPENING REMARKS. Jim Critcher opened the meeting at 6 PM. He stated that the prior President, Joe Giordano had resigned. He read the letter of resignation (attached at the end of these minutes.) He explained that as the 1st VP he would run the meetings until election of a new President in August at the Annual Meeting. He intends to conduct the meetings in a civil and business-like way. Public comment periods will occur after the business of the board is completed.

PREVIOUS MINUTES APPROVAL. The board approved the minutes without changes and directed they be posted on the website.

NOMINATING COMMITTEE REPORT: Mike Veasey, chair of the Nominating Committee gave the report. In response to our informal requests for interest to serve on the board and committees, we have one person interested in serving on a committee, 1 person interested in helping at the lake, 1 person interested in running for the board and heading up a committee, and 1 person interested in the board and possibly heading up a committee. The official call for nominations will be posted on the Facebook page and bmpoa.org site this week and the nomination window will be closed on 30 June. The committee will finalize its recommended slate of officers in early July so that a determination can be made as to whether proxy ballots will need to be sent to members of the association prior to the annual meeting.

FINANCIAL COMMITTEE REPORT: The Treasurer, Mike Veasey, gave the financial report.

- **BMSD:** We began the month with \$148,481 in checking. We had no income this month but expenses were \$6032 (\$100 webpage, \$388 newsletter, \$252 postage, \$2660 stone, \$2632 road maintenance) Reserve fund \$63,880. Checking account \$142,447. Total funding \$206,326.
- **BMPOA:** We began the FY with \$63,618. We have income this FY of \$23,853 (\$3700 of it this month). We have expenses this FY of \$21,842 (\$3213 this month: electric \$154; internet \$209; wedding compensation \$1000; marketing compensation \$250; lodge cleaning \$440; lodge

maintenance \$1160). Checking account balance \$65,629. Of the expenses, \$8863 used to be paid out of sanitary district funds.

ROADS REPORT: Carl Herz gave the roads report: we're in a pause at the moment for scheduled activities, we'll resume after a few more good rains, and these will be the typical pothole and ditch repairs. We continue soliciting bids for Old Log repaving, public notice will be made soon, and we'll put that on our website as well. We intend to present the recommended proposal at June's business meeting, and following that approval we'll be clear for scheduling that activity and making the appropriate announcements. emphasizing that we are currently in a maintenance phase but will soon begin improving some roads such as Old Log.

RECREATION COMMITTEE: Jonathan Morrison, Chair reported that the lodge floors have been painted, the mirror has been rebuilt and rehung and that the lodge is ready for the season's events. He also reported that the lake is ready for summertime opening.

MEMBERSHIP COMMITTEE: Carl Herz reported for Beth Herz, Membership Committee Chairwoman, that two new homes have been completed and letters of welcome have been sent to the residents.

ARCHITECTURAL REVIEW COMMITTEE: Jim Critcher, Chair reported that most builders on the mountain are complying with the covenants but had a common request to be allowed to use vinyl siding. Such siding is against the covenants and the committee decided that no exceptions to this provision would be allowed. The committee urges use of cement-based siding (Hardie Plank) because of its fire mitigation property as well as its immunity from woodpeckers and bugs. When this is explained to the builders most of them drop their vinyl siding requests.

COVENANTS ENFORCEMENT COMMITTEE: Billy Orndorff had nothing to report.

COVENANTS REVIEW COMMITTEE: Erica Santana, Chairwoman, gave an overview of their progress to date. The CRC has spent the last several months researching the history of the BMPOA and its restrictive covenants, weaving together a chronology of events and changes over time, and attempting to understand the responsibilities and authorities of this body. We have grown to a group of 5 members made up of 2 long-time property owners, and 3 more recent residents.

The current state of Covenants enforcement is inconsistent and has been a pain point for the community for some time. Though past attempts have been made, the existing Covenants have not been updated since 1992. Concerns about the Covenants as they stand center around outdated requirements that do not take into consideration the evolution of the subdivision from its original establishment, current building codes and standards, and a significant number of unaddressed existing violations.

When the review effort began, emphasis was placed on 3 key elements of modernization: public safety, property values, and a mountain aesthetic. Although generally, speaking, most folks agree on these core values, there are opposing opinions on what restrictions are appropriate and reasonable.

Historically, Covenant violations have been approached with a warning notice and a period of time for the property owner to correct the violation. If the violation is a matter of a Warren County ordinance, the POA may seek intervention on the part of the county for enforcement. If not, the POA may take legal action against the property owner for a refusal to correct the violation. For the most part, this course of action has not been pursued.

While the Covenants require that all property owners within the subdivision are members of the BMPOA, and all property owners must abide by the restrictions laid out in the Covenants, there continues to be violations of Covenants. Over time, noncommunication of Covenant restrictions to new property owners and inconsistent enforcement has caused violations to become more frequent and egregious. In the absence of willful cooperation on the part of property owners to abide by the Covenants, the CRC committee is exploring different approaches to enhance enforcement.

In order to properly evaluate potential courses of action, and before digging into the heavy lift of modernizing the Covenants, the Committee needs a legal opinion on some key questions.

The Pond Law Group, a local law firm, is familiar with the history of the BMPOA and facilitated the incorporation of the Association in 2003. The CRC is requesting Board approval of \$350 for a consultation with the Law Group to solidify the legal authorities and limitations of the POA's jurisdiction to enforce Covenants.

Key Questions:

- What legal authority does the POA have to enforce restrictive Covenants?
- Does the POA have the authority to fine violators?

Concerns:

- Covenants issues with AirBnB properties

To-do

- Recommendation for board training

The committee requested \$350 for an initial consultation with the Pond Law Group to discuss our rights and covenant enforcement mechanisms. This was approved by the board.

DEER LAKE OPERATIONS: Mike Veasey rendered the report. 1. Toni Magro has expressed an interest in helping with lake operations. She will be exposed to all operational activities with an eye to turning these responsibilities over to her next year if she remains willing. 2. Fresh beach sand (only one dump truck load this year) will be delivered tomorrow (9 May.) David & Ronnie Cook will spread the sand and refresh the mulch pathway before opening weekend, 27 - 29 May, Memorial Day weekend. 3. The first mowing has occurred because the lodge needed to be mowed for a wedding. Mowing will now occur every 2 weeks. Carl will provide guidance as to when the dam needs to be mowed. 4. The Port - a - John company has committed to a cleaning and reopening of the unit that is down there before opening weekend. Cleaning and re-supplying of the unit is scheduled for every two weeks. 5. Five companies were asked to submit proposals for guard service at the lake (preferably unarmed but armed if necessary): Alert Patrol; RAC Security; Executive Protection Services; Top Guard Inc; and Winchester Security Services. Only two responded. RAC security, which used to provide guard service at Deer Lake, declined to submit a proposal citing that they cannot hire suitable people. Winchester Security Services did submit a proposal for armed guard coverage and it will begin providing support May 27. All is on track for a Memorial Day weekend opening.

DAM MAINTENANCE: Carl Herz announced a change in how the grass on the dam would be maintained at the request of the state engineer. We mow only the top, leaving the backside to grow, helping to prevent slough on the steep embankment with good root growth.

There were no reports from the Public Safety, By-Laws Review and Modernization, Arbitration or Legislative and Public Relations Committees as these committees have no chairperson.

There was no report from the Lodge Access Committee because the Chair, Dave Cook, was absent.

OLD/FOLLOW UP BUSINESS: Jim Cook reported that chipping would continue in the days ahead because the contractor didn't finish in two days as he thought he would. Area 3 had an enormous workload and about 70% of it is complete. Areas 1, 2, and 4 will be completed in the next several days. One challenge is that residents will create new piles after the chipping truck has been through. These will have to wait until next time. Another is that the piles have increased in size and number since the contractor drove the roads to form his cost estimate. This new workload may require a price adjustment for the operation.

Harry Davis reported that the association newsletter and recreation passes had been mailed and that all owners should have received them by now. If anyone hasn't received it, they are to notify Harry.

The board considered the request for a Conditional Use Permit for 83 Moonshiner Way. The owner, Ms. Hilliard was in attendance and she spoke of how she would only rent the property occasionally because she intended to use it most weekends. She's only renting it to help defray costs. She assured the Board that she was always available and the maximum number of people allowed at any one time was 4. The board voted to recommend approval of the request to the County.

NEW BUSINESS: Jim Critcher talked about board meeting procedural changes that will be implemented to improve the civility and decorum of the meeting. New business items will have to be submitted to the board via the board email address for consideration at the next meeting. New business will not be brought up for discussion and decision at the same meeting. Public comment periods will be at the end of each meeting. Persons desiring to address the board must sign up for a 3-minute period and they will be called upon to speak in the order that they sign up after the board has conducted its business meeting. Finally, a parliamentarian will be assigned to maintain order and civility in the meeting.

There has been a resident request to install a "Watch for Pedestrian" sign on Blue Mountain Road near the mailboxes at the Little Indian intersection. Carl Herz will request approval from VDOT. Walt Mabe is available to help if necessary.

The desire to assure attainment of a quorum so that business can be conducted when many members of the board travel for work was expressed. Harry Davis will research the corporate law governing the propriety of using proxy voting and participation by Zoom for our meetings.

Meeting was adjourned at 6:35 PM.

NO RESIDENT ATTENDEES ASKED TO ADDRESS THE BOARD DURING THE OPEN FORUM.

President Giordano Resignation Letter

To whom it may concern,

Effective April 21, 2023, I hereby resign my position as President of Blue Mountain Property Owners Association (BMPOA). After having been a resident for 10 years, I felt compelled to volunteer to assist the community, and help improve the common areas and amenities the BMPOA has to offer. After seeing the conduct of members of the community over the last 6 months, I'm almost embarrassed to be associated with this area. It is appalling. Harassment, being following to my car in a threatening manner, verbal outbursts, subterfuge, threats of lawyers and suing the board...it's insanity. This entire situation would be laughable if it wasn't so sad. When it has come to the point that committee members must be forcefully removed for trying to sabotage the association, safety protocols need to be put in place, and I feel my safety is threatened - I will not continue to be involved. That is a level of madness that is beyond unacceptable to me, especially for a local property owners association! I find it unfortunate that the volunteers of the community must endure such disrespect, and I choose not to take part. My family and my pursuits are far more deserving of my time and energy than this community has proven to be.

Best of luck,



Joe Giordano