

Breakwater Estates Homeowner's Association
Minutes of Annual Meeting, Saturday, June 9, 2012
Epworth United Methodist Church

Call to Order: President Maryl Kerley called the meeting of the Breakwater Estates Homeowner's Association to order at 9:02 a.m. and declared a quorum of homeowners either present or by way of Proxy. John Birdsell, Karen McGavin, Scott Standiford and Frank Frazzano were present for the Board. Secretary Brian Eichenlaub and Backup Secretary Marilyn Hewitt were excused from the meeting. Homeowner Leslie Ledogar agreed to take the annual minutes at the request of Marilyn Hewitt.

Present from SeaScape Property Management were Amanda O'Brien and Jonathan Poole.

Minutes: Dana Dembrow motioned to approve minutes of 2011 Breakwater Estates Homeowner's Association Annual Meeting Minutes. This motion was seconded by Nichole Davick. The motion carried.

Treasurer's report: Treasurer Scott Standiford reported on spending from the Association's two checking accounts, one of which holds the funds for normal operating spending and the other of which holds the funds that the Association reserves for capital projects. A balance sheet for each account was presented in a spreadsheet which is attached hereto. The Association's accounts are serviced by Community Bank in Rehoboth Beach because they pay the highest amount of interest.

Since the fiscal year ends on June 30, it will not be until August 1, 2012 that Mr. Standiford will be able to determine excess funds, but he anticipates that there will probably be a small surplus which should be reserved for snow removal. The expenses for maintenance of common areas include cleanout of the parcel of land by the mail boxes that includes a storm water runoff area, maintenance of the small planter on Munchy Branch Road, spraying of wire grass along the edges of the roads to kill the intrusive and damaging weed and maintain the edges of the roads, and the permanent closure of the unused road that exists a few hundred feet past the entrance off Wolfe Neck Road that had allowed access to the former water treatment plant.

Jonathan Poole reported sending a breakdown of all the expenses and maintenance items to residents in advance of the annual meeting.

Picnic and Yard Sale: Ms. Kerley reported that the annual picnic and yard sale will be held on July 14, rather than the week of July 4 so as to avoid the July 4th crowds. The yard sale will run from 8:00 to noon. For the picnic, the Association will provide hamburgers, hotdogs, sodas, water and condiments. Residents who wish to attend should contribute a side dish or dessert to share. Guests are welcome. Residents should RSVP to Ms. Kerley, and let her know how many are attending, including children and their ages.

Trash Service Restrictive Covenant Change. Ms. Kerley began the discussion by indicating that any change in the Association's restrictive covenants would require approval by 51 percent of the residents. The issue is whether the Association should approve the use of a single trash collection.

company or should continue to allow residents to select their individual trash collections companies. Using a single trash collection company would save wear on the roads.

Mr. Poole presented the four bids he had received, copies of which are attached hereto. He offered the opinion that the 30 yard waste container offered by Blue Hen could become a nuisance if others outside the community began using it. He also indicated that SeaScape has tallied 31 votes in favor of changing the restrictive covenant.

During the ensuing discussion, Joanne Sine requested that bids be sought for seasonal residents and asked that no changes be made until after November as she has already prepaid for her trash collection through then. Dana Denbrow also requested the Board consider seasonal pickup, and indicated that he pays \$62 per quarter and requested that the issue be tabled until the expiration of residents' prepaid contracts.

Ms. Kerley and Mr. Standiford declined to table the discussion and explained that the reason the discussion is timely is that currently, four trash trucks per week and two recycling trucks per month travel through the neighborhood, presenting significant wear and tear on the roads. Additionally, these trucks also have difficulty getting past one another, and often run off the road, damaging road edges and residents' properties.

Tom Trlica offered that he pays Waste Management \$54 per quarter and indicated they are very reliable, pick up on holidays and during the snow storm, and offer service on Mondays. Tony Ghigi reminded everyone that if a trash pickup is missed, the trash company is obligated to come back at resident's request. Audrey Bewley commented that in the past, the Homeowner's Association had tried to get one bid for the entire community, but that went by the wayside and that's why each resident is now scheduling individual trash pickup. Ms. Kerley explained that this was done by a prior management company and that when the Association switched management companies, the Association chose Moore Disposal, but other homeowners chose other companies.

John Simmons asked for clarification as to how the use of one company would be enforced. Ms. Kerley indicated that the Association Board has the authority to enforce it just as it would enforce any other restrictive covenant.

Pam Notarange expressed reservations about forcing residents to use one trash company by changing the restrictive covenants. She would be in favor of making the use of a single trash company optional.

Scott Standiford suggested that the terms of the restrictive covenant could be reworded to apply only to people who are year round residents.

Tom Trlica commented that he has used Waste Management for 10 years and they have done excellent job. Karl Dohner suggested that to satisfy those who have already paid, the restrictive covenant could be amended to establish a start date for the use of the new service. Others objected to this suggestion on the grounds that it would tie everyone in.

Dana Dembrow suggested that in addition to the annual rate, the board should get bids for a seasonal rate, and commented that there is no reason to rush into a decision at this time.

Ms. Kerley clarified that a restrictive covenant amendment only asks whether the homeowners are for or against using only one company. We could separate out the date issue. Unless we have 47 votes, the whole thing is a moot point. She also commented that homeowners of the five or six rental homes must alert the tenants of the change.

Pam Notarange requested clarification on what would happen if homeowners want to get a different service if the amendment to the restrictive covenants passes, and Ms. Kerley stated that the Board would fine the homeowner, just as it would in the course of enforcing any other restrictive covenant.

In response to Audrey Bewley's suggestion that the Board go back to the way it was where the Association got the best price, Ms. Kerley responded that even if a majority of the homeowners use one company, if others choose to use other companies, the issue of multiple trucks coming through the neighborhood is not solved and the chaos that this creates will continue.

Scott Standiford commented that the issue with Waste Management did not turn on the competence of the field personnel. Rather, the Board found the lack of responsiveness to the Board on the part of the Waste Management staff concerning responding to the Board's request for a bid was frustrating. Additionally, when he eventually got through to them, the bid turned out to be highest.

Ms. Kerley then closed discussion by committing the Board to obtain bids from each company on a quarterly basis and to communicate the results to the homeowners via email. She requested that each homeowner be sure that SeaScape has that homeowner's email address. Thereafter, the Board will seek votes on the change to the restrictive covenant.

Grace Gannon commented that since Blue Hen offers a senior rate, they should be given an opportunity to bid, and Ms. Kerley agreed.

Erecting a Gate at the Entrance at Wolf Neck Road. The next agenda item was whether to erect a gate at the entrance to Wolf Neck Road. Several homeowners commented in favor of the idea, suggesting that it would reduce traffic on the Association's roads and may help prevent future break-ins.

Others commented against the idea, citing lack of egress and the cost. Ms. Kerley commented that to pay for the gate, there would need to either be a special assessment, a withdrawal from the road fund, or some combination of the two, but that a gate is not in the current budget.

To respond to John Simmons question about the yearly costs of maintenance, Jonathan stated that another neighborhood, Plantations West and Plantations East recently erected gates at a cost of \$14,000. He also stated that maintenance is minimal. Additionally, the gates are constructed with vinyl screws and bolts so that they simply break away if someone runs into the gate, and it takes 10 minutes to repair. The actuator that makes the gate arm go up and down requires minimal oiling. Energy to operate the gate could be run from the meter at mail boxes.

Scott Standiford commented in favor of the gate, opining that a gate would help cut down on the use of Rusty Anchor Road and Breakwater Road as routes of choice to get to the local parkland on Wolfe Neck Road, for other illicit traffic, and by delivery company trucks and trash trucks as a convenient way to turn around.

Nichole David suggested installing speed bumps to slow traffic down, but Ms. Kerley stated that homeowners had voted this suggestion down in the past because speed bumps make it more difficult to plow, among other reasons.

Ms. Kerley requested a show of hands as to how many homeowners were in favor of the gate and how many were against so the Board would know whether to continue to pursue research on the issue. One third of the homeowners raised their hands in favor and two thirds raised their hands against, so the Board will not pursue the issue further at this time.

School Buses – Ms. Kerley introduced this issue by stating that in 2007, the Association voted against allowing school buses into the community to pick up and drop off students in front of their homes, because school buses further contribute to the wear and tear on the community's roads. The issue arose in 2007 because, pursuant to a Cape Henlopen school district policy, district school buses are not allowed to go into communities with private roads unless they have permission from the community.

Since the community now has some residents who have school-aged children, the Board is obligated to again survey the community on this issue. This vote was also submitted to the homeowners by paper document. Ms. Kerley reminded the homeowners to mail in their vote on this issue.

As a separate issue, Ms. Kerley reported that a parent with limited mobility currently living in the community made a Federal Fair Housing Act request that the school bus be allowed to enter the community so that this family's children could be picked up and dropped off at that family's home and the Board granted this request for remainder of the school year.

To determine how to handle future requests due to the added wear and tear on the Association's roads, the Board sought the advice of Raymond Paylor from the State of Delaware Human Relations Commission concerning its future obligations to grant such requests under the Fair Housing Act. The Board was advised that under the Fair Housing Act, the Board is required to grant such a request because of the requirement to provide equal accommodation to persons with physical limitations. However, the Board was advised that it could ask the parent to provide third party verification that the accommodation is required. The Board did so, but the resident has as of now failed to provide this verification.

The Board has hired Vince Robinson, Esq. from Griffin and Hackett to interface with the resident and the Human Relations Commission concerning obtaining third party verification of need on an annual basis. The Board was advised that it should annually evaluate the need to allow the school bus into the community, and that a request to have the children picked up in front of the parent's

house must be tied to actual need on the part of the parent. The expense to the community will come in the form of attorney's fees to get third party verification.

Ms. Kerley reported that the parent made the request on the ground that the parent is unable to accompany the kindergarten and third grade children to the bus stop. The Federal Fair Housing Act requirements superseded any of the Association's restrictive covenants. Other children in the community will continue to be picked up at the designated school bus stops until the results of the survey are received and announced.

New Business:

Mary Stein reported that the Delaware Uniform Code does not allow for senior discounts to offset the \$450 homeowner's dues. All owners in the community must pay the same dues amount.

One homeowner requested that the Board require homeowners to install landscaping, citing the provisions in the bylaws that require landscaping within six months of buying the home. Ms. Kerley declined this request because landscaping includes grass, and the Board lacks the authority to require homeowners to landscape beyond grass.

This same homeowner also requested that the association have two meetings a year, but Ms. Kerley responded that homeowners had already voted against this suggestion at a prior meeting.

Dana Dembrow reported on the Bike to the Beach, Delaware First State Trails initiative. He made a motion that the homeowners should direct the Board to urge representative James Westhoff at James.Westhoff@state.de.us to vote to pass the initiative, and that the Board should notify the Delaware Department of Natural Resources and other elected officials that the Association is in favor of having aid for bike trails be applied to the Wolfe Neck bike trail so that it can be upgraded. Nichole David seconded.

Discussion: Scott Standiford indicated that he would be in favor of this motion if it only applies to upgrading the existing trail but he would not be in favor of converting rails to trails because the unused rails should be reserved for an expansion of rapid transit, including a train from Lewes to Georgetown, and Milton to the main north/south line that follows Route 13.

Ms. Kerley moved to amend the motion so that it applies only to the existing bike trails, and the motion passed unanimously.

Ken Reilly stated that he noticed a red van passing though the neighborhood, and he stopped the driver as a part of the neighborhood watch. He admonished neighbors to be aware and observant.

Tom Trlica moved to adjourn and John Simmons seconded. Motion carried unanimously.

Respectfully submitted by
Leslie W. Ledogar on behalf of
Board Backup Secretary Marilyn Hewitt