

**BELLA VISTA VILLAGE PROPERTY OWNERS ASSOCIATION  
BOARD OF DIRECTORS MEETING  
JUNE 18, 2015 ° 6:30 P.M. ° BELLA VISTA COUNTRY CLUB**

**BOARD MEMBERS PRESENT:** Chairperson Bob Brooks, Directors Dave Barfield, Joshua Hart, Ruth Hatcher, Pat Laury, John Nuttall, and Ron Stratton.

**BOARD MEMBERS ABSENT:** Vice Chairperson Brad Morris.

**OTHERS PRESENT:** General Manager Tommy Bailey, Director of Finance & Administration Dwain Mitchell, Staff Attorney Doug McCash, and Corporate Secretary Kathy Ferguson.

**I. CALL TO ORDER**

Chairperson Brooks called the meeting to order at 6:30 p.m. There were 14 members in attendance, as well as one media representative.

**II. PLEDGE OF ALLEGIANCE**

**III. INVOCATION**

Pastor Randall Caselman of the Bella Vista Church of Christ gave the invocation.

**IV. ADDITIONS/DELETIONS TO THE AGENDA**

**V. REPORT ON BOARD EXECUTIVE SESSIONS HELD ON MAY 21, 2015 AND JUNE 9, 2015**

Director Nuttall said the Board met on May 21 in Executive Session and said they elected officers for the 2015-2016 session. He said Bob Brooks was elected Chairperson and Brad Morris was elected Vice Chairperson.

Chairperson Brooks said the Board met in Executive Session on June 9 to discuss the vacancy on the Board and how to fill it, and said they determined the procedure would be to accept resumes from members in good standing to be turned in by June 26. Chairperson Brooks said they would then review and interview the candidates and make a selection.

**VI. APPROVAL OF BOARD MEETING MINUTES**

Chairperson Brooks asked for a motion to approve the minutes of the May 21, 2015, Regular Board Meeting.

Director Hatcher moved the approval of the meeting minutes, seconded by Director Nuttall.

The motion passed unanimously with Chairperson Brooks voting Vice Chairperson Morris' proxy.

**VII. GENERAL MANAGER'S REPORT**

The General Manager presented his report for the months of April and May, including an update on the ADA projects.

Director Hart arrived at the meeting.

Director Barfield mentioned that the April financials are still on the website and asked why the May financials are not yet posted.

Mr. Bailey explained Mr. Mitchell has been busy with other projects.

## VIII. RESPONSE TO PREVIOUS OPEN FORUM COMMENTS

Chairperson Brooks said at last month's Board meeting, a member read a statement which included several questions for the Board. He said we are going to answer the questions by having Director Laury read the question that was asked and the Chair would read the POA's response.

Director Laury said the member prefaced his questions by stating he wondered how this transaction would be handled by the POA Board and said it was handled as he thought it might. The member said it appeared to him it was less than based in full disclosure and poorly represented POA interests.

Director Laury read the member's statements/questions:

1. The Tanyard Creek Driving Range and Dogwood Drive Property Exchange with Cooper Communities, (now known as the Dogwood replat) was not on the POA work session agenda of April 9, 2015 even though it was apparently discussed at that meeting.

*Chairperson Brooks said the discussion that took place came about as a result of other business. He said we often have items that come up during the course of meetings that are the result of other topics, and that is why it did not appear on the agenda. He said the Board Chair reserves the right to add or delete agenda items based on new information or situations that present themselves after publication of our agenda.*

2. The Tanyard Creek Driving Range and Dogwood Drive Property Exchange with Cooper Communities was not on the meeting agenda late Wednesday the 15<sup>th</sup>, the day before the Thursday POA Board meeting of April 16, 2015.

*Chairperson Brooks said the notification was made on April 14, 2015 as evidenced by communication with the Weekly Vista and updates on the POA website.*

3. The description for this "new business" on the April 16 meeting agenda was not as a property exchange involving a significant POA investment in the Tanyard Creek Driving Range, but rather as a "Dogwood Replat". This vague terminology effectively minimizes exactly what is being done in the interest of POA members and could lead to misunderstanding.

*Chairperson Brooks said the amount of public interest associated with the Dogwood replat at that time, lead us to believe that this was a sufficient description. He said we will attempt to expand on our descriptions in the future.*

4. I was asked in the April 16 meeting, what I was doing here if I didn't think this topic was on the agenda. I should have said that I've been interested about how this exchange would be handled. I didn't expect it to be discussed, nor acted on as a "final" action, in the public meeting if it wasn't on the working agenda provided to all interested parties. I attended the public meeting on the 16<sup>th</sup> in case it did come up. My concern turned out to be well founded because is exactly how "new business" topic was discussed and the property exchange was completed.

*Chairperson Brooks said due to the interests of multiple parties, and the proposed documents regarding the exchange being made available, moving forward with a vote on the subject was the next course of business.*

5. If you expect to maintain integrity of the public "agenda" concept, you need to establish and respect a documented process to place discussion items on your "agendas" in a timely manner for consideration. Mr. Teal shouldn't have to stutter when asked when this issue was placed on the agenda. I shouldn't have been asked why I was here if this wasn't on the agenda. There really

isn't any reason to publish your agendas as though they have meaning if meaningful business topics are then added that aren't on the agendas.

*Chairperson Brooks said to refer to the answers provided for #1 and #2.*

6. It appears that the POA wanted to exchange the property rather than protect POA interests. Mr. Bailey explained in detail the efforts to verify Cooper claims that a past property exchange agreement existed, but in fact, it didn't exist but it appears that POA has proceeded with this transaction as though it did. There was no presented documentation of the exchange and that is a fact. In 1989, the POA entered into a 30 year lease for the Tanyard Creek driving range property. In 2013, the POA entered into another lease for the Tanyard Creek Driving Range reflecting that Cooper Communities owns the parcel that specifically "ends the lease for the Tanyard Creek Area Driving Range, Parking and Golf Facilities, Tanyard Creek Hiking Trails and Facilities December 31, 2019". That may present a less than mutually beneficial agreement between the POA and Cooper Communities. It appears that this is a very well documented and agreed upon, threat to the POA properties to the benefit of Cooper Communities.

*Chairperson Brooks said the lease on said property would end, and the potential to lose or incur additional fees by entering into a new lease with the lessor was not in the POA's best interests. He said although no documentation was available, a former Director of Golf with firsthand knowledge of the situation confirmed an oral agreement did in fact exist.*

7. In 2013, Cooper Communities knew they owned the driving range property and the POA didn't and the property exchange had never taken place. End of story. The proposed "Dogwood Replat" property exchange should proceed as a new offer for consideration by the POA Board and not as a legacy agreement based in goodwill with Cooper Communities.

*Chairperson Brooks said a verified oral agreement made by past leadership should be honored morally and ethically by this organization.*

8. I think the POA pays the property taxes on these leased properties as provided in the leases, so in fact, Cooper did benefit by these leases. It appears that they benefit without that cost exposure and then hold the goodwill of the POA against them relative to these properties.

*Chairperson Brooks said taxes on the property in question are a small price to pay for the amount of activity and enjoyment that our members derive from the trails, driving range and parking lot.*

9. If you want to present that you were protecting POA interests related to this transaction, you could have presented that you considered Adverse Possession or Boundary by Acquiescence in these specific instances as they affect the Country Club Golf Course and Cooper Communities properties:
  - a. The encroachment of Cooper Communities properties into the 18<sup>th</sup> fairway as established long ago by out of bounds markers;
  - b. The encroachment Cooper Communities properties into the 10<sup>th</sup> fairway and areas around the green as established long ago by out of bounds markers and cart paths;
  - c. The cart path encroachment into the Cooper Communities owned properties on hole #10 on the Country Club was specifically noted by a board member in the April 16 meeting and any discussion was stonewalled. Why was that discussion stonewalled and that long term past use of these improvements by the POA not protected?

*Chairperson Brooks said the lessor holds ownership to multiple properties currently benefiting our membership, some of which would have a negative impact to our membership if terminated. He said the benefit of using these properties far outweighs any possible negative change in relationship between the two parties when compared to a few feet of disputed property boundary.*

10. What was the urgency in completing exchange last month? It appears to me that the Tanyard Creek Driving range lease is in place through December 31, 2019. If this was a “forced” exchange suggesting some required urgency and Cooper Communities held some meaningful leverage to expedite this exchange at this time, just confidently explain the reasoning. POA members know that this leverage exists in many forms and if a condition forced your hand, it would have been better to explain the compromised condition.

*Chairperson Brooks said refer to the answer provided for #4.*

11. Director Laury said Question #11 would be answered later.
12. I’m not aware of any consideration of property appraisals to compare and evaluate the actual values of the properties being exchanged. This might not have affected anything, but it would allow a fair evaluation of these properties and it is the correct way to handle any POA property transaction representing the interests of others.

*Chairperson Brooks said in light of the agreements formed by past leadership, any request for property valuation would add cost to our organization without changing the outcome of the negotiation.*

13. There may be other POA properties in compromised positions relative to existing Cooper Communities lease conditions that need to be considered as potential financial liabilities. There are a total of 17 properties listed in the 2013 lease agreement with three leases specifically noted as terminating on December 31, 2019. The three specifically listed as though they have some strategic interest for Cooper Communities are:
- a. The Scotsdale parking facility for the golf course (Parcel 82)
  - b. The parking area between the Kingsdale Club Site and Riordan Hall (Parcel 114)
  - c. The Tanyard Creek Area Driving Range, Parking and Golf Facilities, Tanyard Creek Hiking Trails and Facilities (Parcel 162)

Other than the Tanyard Creek facilities previously noted, what happens when the other two are turned over to Cooper Communities on December 31, 2019 per the terms of the 2013 lease? These properties, and more importantly the related properties, are effectively leveraged (borrowed from others) and have very real financial exposures to the POA until the leverage is cleared. Are there any plans or disclosures to be made regarding what Cooper Communities expects from the POA to clear these properties with significant uses to related POA facilities?

*Chairperson Brooks said we cannot speak for Cooper Communities, but said these are leases that are currently in effect, and as they come up for renewal, leadership will work in the membership's best interest for renewals with the lessor.*

14. I also understand that I have limited visibility to the many legacy relationships, past and future benefits that Cooper Communities may provide to Bella Vista as a community and the POA. I also understand that these relationships can change over time, especially considering the informal agreements and developments that may have been completed from 50 years ago to the much preferred formal agreements and documentation that would be expected today. Those significant changes over time are no reason that the POA board and leadership shouldn’t handle their affairs

today and in the future representing the interests of POA members without fear, based in fact and every bit of pride that they deserve.

*Chairperson Brooks said we agree with this statement.*

Question #11: The courtesy expected in past discussions between Dogwood Drive residents and Mr. Bailey to understand this potential exchange was not respected. Discussions with Mr. Bailey months ago regarding POA awareness of this transaction were positive. All that was asked in those meetings was open communication regarding this transaction as it would come up in the future. That courtesy was never reciprocated as though there was some risk in communicating with us.

*Mr. Bailey said there were a few communications early on. He apologized and said he should have contacted one of the residents that this would come up for a vote, but it did not cross his mind.*

## **IX. OPEN FORUM**

One employee, soon to retire, publically thanked General Manager Tommy Bailey and Director of Finance & Administration Dwain Mitchell for allowing her to be a part of this organization and said she has seen enormous progress and a lot of effort in doing more with declining resources. She said she hopes these two men will be allowed and encouraged to move the community forward.

One member clarified a comment he made at the previous Board meeting.

## **X. OLD BUSINESS**

### **A) Clubhouse Restaurants**

Mr. Bailey said we have gutted the Metfield kitchen in preparation for moving the Membership Services Department to that area, and said we are also putting in a small grill. He said the Board approved funding for an architect to provide a design concept, and said we will have documents at the end of the month.

The General Manager said we have a lessee who has signed a contract to operate the Highlands restaurant. He said the only outstanding issue is their liquor license. Mr. Bailey said the walk-in cooler and freezer for the Highlands should be completed by the end of July, and the vent hood should be done by July 10. He said the costs are within the original estimates of \$34,000 for the hood and \$18,000 for the walk-in cooler.

## **XI. NEW BUSINESS**

### **A) Board Policy Committee Appointments**

Chairperson Brooks appointed the following Board members to the Board Policy Committees:

**Audit Committee:** Joshua Hart and Brad Morris

**Marketing & Communications Committee:** Ruth Hatcher, John Nuttall, and Ron Stratton

**Planning Committee:** Bob Brooks, Patrick Laury, Brad Morris, John Nuttall, and Ron Stratton

**Rules and Regulations Committee:** Dave Barfield, Bob Brooks, Joshua Hart, Patrick Laury, and Brad Morris

### **B) Appoint Chairperson Brooks as Authorized Check Signer**

Director Stratton approved a resolution to authorize Bob Brooks as a check signer for the association, seconded by Director Hatcher.

The motion passed unanimously with Chairperson Brooks voting Vice Chairperson Morris' proxy.

## **XII. COMMITTEE REPORTS**

### **A) Rules and Regulations Committee Report**

Director Nuttall made a motion to send Policy 2.07 back to the Rules and Regulations Committee for an amendment to address blowing leaves into the lake, seconded by Director Barfield.

Mr. McCash said Policy 2.07 (Regulation of Common Property - Cutting Trees) sets forth specific fines that could be imposed for cutting trees on Common Property and provides the POA the ability to pursue criminal charges, and he said this policy was to come forward today on a second reading.

The General Manager said cutting down trees is a criminal activity so we have recourse, but he said there is very little enforcement authority on blowing leaves into the lake.

Mr. McCash said we could review this at the next Rules and Regulations Committee meeting.

Director Laury asked if the policy should refer to live trees only, and Chairperson Brooks said this could be discussed at the Rules and Regulations Committee meeting.

Director Stratton asked if the policy should pertain to leaves from private property rather than just Common Property, and Mr. McCash said the Rules and Regulations Committee could discuss this.

The motion passed unanimously with Chairperson Brooks voting Vice Chairperson Morris' proxy.

## **XIII. JOINT ADVISORY COMMITTEE REPORTS**

Director Hatcher said there was discussion at the Golf Joint Advisory Committee about the adverse affect weather has had on golf rounds.

Director Barfield said Darrell Bowman gave a report at the Lakes Joint Advisory Committee on the fishing derby held last Saturday (148 children registered). He said Mr. Bowman was very complimentary of the volunteers who assisted, especially the Bella Vista Fly Tyers. Director Barfield said Mr. Bowman stated the Arkansas Game & Fish was also very helpful with the tournament preparations. He reported the weather is causing Loch Lomond to have an algae bloom, and said Mr. Bowman is contracting someone to handle this. Director Barfield said Hot Springs Village was here to help with electrofish sampling on our lakes in exchange for use of our electrofishing boat.

## **XIV. ANNOUNCEMENTS**

A) The next GM/Board meeting will be held on Thursday, July 2, 2015, 1:30 p.m. in the Country Club Board Meeting Room. (This is a closed discussion meeting.)

B) The next Board of Director's Work Session will be held on Thursday, July 9, 2015, at 8:00 a.m. in the Country Club Board Meeting Room.

C) The next Board of Directors Regular Meeting will be held on Thursday, July 16, 2015, 6:30 p.m. in the Country Club Board Meeting Room.

## **XV. ADJOURNMENT**

Director Hatcher made a motion to adjourn, seconded by Director Nuttall. The motion passed unanimously with Chairperson Brooks voting Vice Chairperson Morris' proxy.

The meeting was adjourned at 7:30 p.m.

Submitted:

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Kathleen M. Ferguson, Corporate Secretary

Approved:

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Bob Brooks, POA Board Chairperson