

In Attendance: Will Kim, Gloria Harrington, Dave Richardson, Patricia King, Kim Pugliese, John Constance, Joe Giacobbe, and Ed Wildman. Judy Voss (Town of S Bristol).

WebEx of 57 call-ins.

Absent: Gina Cushing

Meeting called to order at: 7:02.

Will Kim conducts the meeting

- 1). Repair - Maintenance facility. RG & E completed all electrical work as of 10/11/2021. On budget and on schedule. Incurred \$8,000 of unanticipated expense due to extra reviews and drainage reports requested by the town, but covered in the \$245,000 budgeted for landscaping, materials and construction, which allowed for some contingency.
- 2). Stairs – Structural engineer has provided a basic diagram to address the immediate and urgent shoring-up of the posts supporting the structure, as the posts toward the bottom third of the stairs have rusted out. If the stairs remain in the current condition over the winter, they will be deemed irreparable. It is now deemed an “emergency repair.” Contractor information required and then a permit can be obtained.
- 3). Elevator repair - Concrete work finished. While repair can continue via hiring a barge to bring materials to the beach, BHVA will incur additional expense and is a risky approach, as machinery could be damaged, and it will require extra expense. Will use BHVA access rights via Shore Drive to make repairs. Currently in the legal process, as access is being obstructed. A letter has been submitted to Knauf for access, based upon Judge Ordorisi’s ruling. In spite of the favorable ruling, Fields denied BHVA access anyway. The matter of access is being covered by Erie Title as part of the main litigation with minimal or no cost to BHVA - no legal expense for Sept. and Oct related to the litigation.

4). Shore Drive - 1971 - The Offering Plan gives BHVA access to the elevator via Shore Drive. The concept that an outparcel was sold by the Cooks to the Fields, and that BHVA's access rights were terminated as a result, is incorrect.

5). Mediation - We are approaching it with the intent to resolve everything we can, if possible. We will protect BHVA rights, meaning BHVA will retain all property and uses that are owned by this community. The mediation is scheduled for mid-November.

Questions from the floor were addressed:

Steve Westerdahl - What are the transitional expenses for legal fees? Response: These fees were to cover the transference of material Duane Morris worked on to Erie Title and the Rupp firm. Rupp is now well positioned to take us to mediation.

Bob Spada - Didn't the board decide to finance the maintenance facility? If we had the assessment fee would have been. \$2250. Response: The BHVA BOD did not pursue financing the maintenance facility. Hence, no fees or interest to be incurred by homeowners.

Brian Voorheis - Are we on budget and on schedule for maintenance building? Response: Will explained: \$8,000 complaint of a resident – now resolved – resulted in additional reviews and drainage reports by the town. \$245,000 allowed for some contingencies. Remain on budget and on schedule - deadline for completion is the end of December. Estimate to be completed mid-December.

Gloria Harrington addressed the fire hydrant issue. Supervisor Marshall has the town attorney researching the BHVA documents. The town has not located any documentation requiring the developer to provide fire hydrants. Town continues investigating, but no new construction will be allowed until fire hydrant issue is settled.

Plan B - water tankers from Cheshire will be provided. The TOSB is concerned about density at Bristol Harbour.

Questions from the floor continued:

Brian Voorheis - Is BHVA getting a quote on a pavilion? Response: Between the southern end of the CC and the Maintenance facility, there is adequate space. We expect to have an estimate - but further action is on hold until maintenance facility finished.

The issue of questions - QCC not being answered – Response: Will asked that residents read Constant Contact updates and to ask questions during community meetings.

Peter Hessney read a two page report asking the BHVA BOD for more financial information. His letter is attached.

Financial details are available on the Crofton website.

Dave Richardson has requested more detailed information from Crofton. Have not yet received.

Baird Couch stated that when he was on a board, with Kenrick as Property Manager, the BOD received more detailed accounting reports than the community and there is no reason these should not be shared with the community. Response: The BHVA BOD has not found this to be the case with Crofton.

Ralph Gebhardt questioned Patricia King's position on the board. Response: Patricia was indeed elected to the BHVA BOD.

Marcia Couch - When there is a vacancy, what is the process for filling it? Response: The process - the documents are clear - the majority vote of board members appoints a replacement for the remainder of the term. Kim Pugliese joined the EC, then accepted the position of Co-Secretary. Kim agreed to take a board position when Laura Halleran resigned.

Sue Godshall – Follow-up on Marcia's comment – This raises concerns on how board members are chosen. Response: Will explained the BOD

looks for people with certain skills to compliment the skills of other BOD members.

A comment by Sue: The BHVA BOD should make a bigger attempt to include all parts of the community in the process.

Debbie Voorheis: Why were Mr. Hessney and Mr. Gebhardt not considered for the open board position?

Board was asked to show by raise of hands, all that were elected officials. Seven of the eight board members present, raised their hands. Will noted numerous times, all BHVA governing documents have been followed.

Phyllis Jensen - in Naples - All the boards appoint a new member when someone resigns prior to fulfilling their term. The appointee serves until the term of the elected official is done. This is the standard.

Debbie Voorheis - Have the Cooks been notified of the violations? Response: Yes, they have. The Cook's attorney has responded to the BHVA BOD.

Olvind Jensen asked about the EC violations by the Cooks. Response: Again, Cook's attorney responded with a legal letter, and we will follow up.

How are we using the Special Assessment? – Response: 1/2 legal reserve fund — 1/2 maintenance reserve fund, including stairs, elevator, road, capital programs.

\$19,000 plus into maintenance reserve account every month.

Will announced the community center mortgage will be paid-off by year-end and 2022 HOA fees will increase to \$190 per month, from \$160. Monthly payments during 2021 have also included an additional \$12 fee related to the payment of the loan for the community center, which will be eliminated once the loan is paid-off. (Total 2021 HOA monthly fee: \$172; hence net year-over-year increase is \$18/month.) The increase will be used toward offsetting the increased costs of the community service providers (such as sanitation collection, snow removal,

landscaping, etc.), allow the community's aging infrastructure to be addressed with needed maintenance and repairs, make improvements throughout the community, and to fund legal expenses as we continue to protect and defend the community's properties and assets.

Peter Hessney asked if Board considered a monthly payment plan for special assessment. Response: Yes.

Peter Hessney asked for a workshop on the long term capital plan. Response: Will said that is a good idea.

Bob Spada asked about mediation: Response: Will reiterated that he hoped mediation would work – but it takes two parties. We will not give away what is ours, but want to resolve everything we can.

Bob Spada - What was the \$800 assessment used for? Response: Legal fees related to the FEI lawsuits.

Brian Vooheis - Fields wants open access to all. Response: Will said we have a judgment that we control our access and have the right to defend our property rights This has already been decided.

Joe Kohler: Paid his Special Assessment and spoke in support of the BOD.

Meeting adjourned at 8:20.

Respectfully submitted,

Patricia King

Dear Mr. Kim and BHVA Board Members:

With this letter the following listed BHVA residents and members of the homeowners' association are formalizing our request for more financial information and board action. Many of us have repeatedly asked and have submitted QCC questions as to where we as an association are financially. The board and Crofton-Perdue have ignored residents and not answered basic financial questions regarding the disbursement and allocation of our dues and special assessments. We are concerned that we have recently been informed by the board that we must pay a special assessment fee as high as \$2,900 while we still have no specific information about how last year's \$800 special assessment fees were allocated. Having a clear and concise understanding of how our money is being disbursed is not only a reasonable expectation, but also our right under the law.

To that end, we request that the BHVA Board of Directors release more detailed financial accounting documents. This would include past and pending debt obligations as well as general ledger of incoming and outgoing payments related to the fiscal management of our community. It is our right under Section 621 of NYS's Not-For-Profit Corporation Law. Section 621 sets out clear expectations for governing boards of entities such as the Bristol Harbor HOA, including the rights of members to review financial documents.

To facilitate the release and communication of the detailed financial reporting that we are requesting, we respectfully propose the following Special Assessment Resolution draft be reviewed, finalized, and favorably voted on by our board. This will go a long way in addressing residents' concerns about where our money is going. It will also serve as a good communication mechanism so that important board financial decisions, such as the prioritization of community projects, become more transparent, and we all have a clearer understanding of where our hard-earned monies are being applied.

We would like to see the following example of a board resolution framework, as it relates to further clarification of the special assessment, be passed in some form:

Whereas it is necessary for the BHVA board to impose a \$2,900 special assessment to the BHVA homeowners' association for the primary purpose of replenishing depleted maintenance and capital reserve funds caused by continued aging of our community infrastructure requiring continuous maintenance upkeep, and

Whereas the BHVA board understands and agrees that it their responsibility to ensure that the special assessment proceeds are spent specific to the following identified and prioritized projects with the estimated budgeted costs of \$\$\$\$ for Project 1, \$\$\$ for Project 2, and \$\$ for Project 3, and

Whereas it is also recognized by the BHVA board that a portion not to exceed 50% of the current imposed special assessment may unfortunately be needed to continue to defend and mediate our FEI lawsuit and counter suit, and

Whereas it is the BHVA board's sincere intent to wisely and judiciously use the special assessment funds and if mediation with FEI, through the assigned court mediator, is successful, that the board will re-allocate the excess and available special assessment legal funds to the maintenance reserve fund for subsequent and identified community project needs, and

Whereas it is also recognized by the BHVA board that the community desires and deserves a more detailed access to and understanding of the actual in and out timing of special assessment accounting, showing the received payments and disbursement details, then as such We, the Board of Directors of BHVA, hereby commit to this Special Assessment Resolution.

As the special assessment due date is less than a month away, we respectfully request that the board take immediate action with respect to our request.

Respectfully submitted by;

Paige and Robert Blazak
Anne Caprini
Rosemary and Joseph Carney
Diane and Duane Cera
Dr. Wayne Chanler
Lisa and Tom Corrigan
Marcia and Baird Couch
Cyndee and Richard Cutri
Margaret and Kieran Daly
Tracey and Chris Donnellan
Kathleen and David Gates
Deb and Ralph Gebhardt
Sue and David Godshall
Lewis J. Gould and Veronica Schultz
Sharon and Benedict Gullo
Judy and Peter Hessney
Elizabeth and Charles Koster
Cindy and Bob Lozo
David Luellen
Debbie and Tim Mahoney
Polly and Jim McCarthy
Judi and Dick McGrath
Wendy and Lawrence McKee
Linda and Robert Militello
Barbara and John Miller
Vivian and Bill Neidel
Margaret Sexsmith and Larry Quarterman
Michael Sheedy Jr.
Linda and Bob Spada
Maryjane and Todd Stell
Kerrie and Michael Stuber
Mary and Dr. Michael Ternisky
Deborah and Brian Voorheis
Michael Voorheis
Jeana and Michael Waters
Michelle and Donald Wernsing
Steve Westerdahl
Lawrie and Glenn Will