

Birch Creek Village Properties, Inc.

Board Meeting Minutes

April 10, 2021

Board Members Present - Janet Hancock; Carla Craig; Pam Kubiak; Danna Anders; n

Officers Present - Billy Hancock; Karla Dobbs

Property Owners Present – Susan & Gary Lee, David Uptagraft

Meeting Content

- Meeting called to order at 9:00 am by HOA President – Billy Hancock
- Pledge and prayer
- Treasurer report given and approved (see attachment #1). Motion to approve made by Danna Anders and 2nd by Pam Kubiak.
- Approval of prior Board Meeting Minutes for the February 13, 2021 meeting. Motion to approve made by Carla Craig and 2nd by Danna Anders.

Topics for discussion:

1. Carla Craig/Pam Kubiak to provided updates regarding the questions submitted to the Attorney. (See attachment #2 email from attorney)
2. Update on IRS filings – Carla Craig indicated the 2020 IRS Filing will be completed soon.
3. Discussed purchasing new pool signs for pool area. Danna Anders volunteered to do research for pricing and to report back to Board for approval before ordering. (See attachment #3 – emails)
4. Alice/Kenny Shaffer have agreed to take over some of the common area maintenance duties for \$225.00 per month. Motion to approve - Janet Hancock, 2nd by Pam Kubiak (See attachment #4 – contract)
5. Discuss camera repair for pool/clubhouse. This was tabled at last 3 Board Meetings. Need a volunteer to obtain and present estimates to the Board.
6. The Multiport valve on the pool sand filter needs to be replaced. Multiple emails have been sent out to the Board for approval but a unanimous consent has not been received via email. Janet Hancock provided an estimate from MD Pool Service for Board approval (see attachment #5). Motion to approve Janet Hancock, 2nd by Pam Kubiak.

7. Board agreed that in the future any swimming pool costs over \$750.00 will require multiple estimates before Board approval. Motion to approve by Carla Craig, 2nd by Danna Anders.
8. Seller of 104 Chargers Lane needs a release of certain restrictive covenants before they close on their property. Danna Anders will research and provide update to Board.
9. The painting of the club house is completed. Special thanks to those women who helped make that happen. Carla Craig, Pam Kubiak, Janet Hancock, Karla Dobbs and a big Thank You to Alice Shaffer for her work and for lending the scaffolding for this project.
10. More Thank you's for Donations
 - a. Carla Craig donated rocks for the flower beds
 - b. Janet/Billy Hancock, Karla/Mike Dobbs donated flower pots, mulch, metal flowers and paint supplies. Janet Hancock and Karla Dobbs did the work on the club house flower beds.
 - c. Larry Coker and his wife donated painting supplies, a garden hose and hose hanger.
 - d. Richard Twardowski dug out stumps around the club house and parking lot.
 - e. Pam Kubiak donated \$50.00
11. General discussion:
 - a. Work Day items – Pool Bath House area
 - i. Paint – Alice, Janet and Karla have volunteered.
 - ii. Replace siding – Kenny Shaffer to work on siding this Saturday.
 - iii. Pressure Wash – Alice/Kenny Shaffer completed this task.
 - iv. Installation of sun shade sail – Larry Coker said he could help.
12. Next Board Meeting is June 12, 2021 at 9:00 am.

Motion to adjourn made at 10:25 am, by Karla Dobbs 2nd by Janet Hancock.

Karla Dobbs
Secretary

6-12-2021

Attachment # 1

QuickBooks Report PREPARED for Birch Creek Village Properties HOA Meeting April 10, 2021

From 02/14/2021 through 04/09/2021

Date	Number	Payee	Account	Memo	Payment	Deposit	Balance
2/19/2021	2832	Burleson County Tax Office	-split-	Deposit		\$ 4,400.00	\$ 27,379.96
2/24/2021	ACH	Bluebonnet	4050 · Taxes - Property	Property Taxes	\$ 85.70		\$ 27,294.26
2/26/2021	2833	Walter Holland	4030 · Utilities - Electricity	Electric	\$ 454.45		\$ 26,839.81
2/26/2021	2834	Frontier Communications	4010 · Pool Maintenance	Jan	\$ 250.00		\$ 26,589.81
3/1/2021	2835	M D Pool Services	4031 · 911 phone	911 phone	\$ 70.17		\$ 26,519.64
3/2/2021	ACH	State Farm	4010 · Pool Maintenance	Pool Maintenance & chemica	\$ 200.00		\$ 26,319.64
3/3/2021	2836	US Postal Service	4070 · Insurance - Liability	Mar 2021 newsletter	\$ 210.14		\$ 26,109.50
3/5/2021	2837	US Postal Service	4040 · Postage	Deposit	\$ 165.00	\$ 1,912.00	\$ 25,944.50
3/8/2021			-split-	cert mail	\$ 8.30		\$ 27,856.50
3/18/2021			4040 · Postage	Deposit		\$ 1,420.00	\$ 27,848.20
3/29/2021	2838	M D Pool Services	-split-	Pool Maintenance & chemica	\$ 449.77		\$ 29,268.20
3/29/2021	2839	Frontier Communications	4031 · 911 phone	911 phone	\$ 70.17		\$ 28,818.43
3/29/2021	2840	Pool Tex	4010 · Pool Maintenance	balance replave pool pump	\$ 558.28		\$ 28,748.26
3/29/2021	2841	Walter Holland	4010 · Pool Maintenance	Mar final pymt	\$ 250.00		\$ 28,189.98
3/31/2021					\$ 2,771.98	\$ 7,732.00	\$ 27,939.98

Motion to approve DA PK and

ccraig44@hotmail.com

Subject:

FW: Birch Creek Village Properties

per CC
The HOA
Can file a lawsuit
for deed restriction
violations.

From: Lauren Turnbull <Lauren@hle.com>

Date: April 9, 2021 at 3:42:25 PM CDT

To: Pam Kubiak <pamelajkubiak@gmail.com>, "birchcreekvillageproperties@gmail.com"

<birchcreekvillageproperties@gmail.com>

Cc: Kim Taylor <Kim@hle.com>

Subject: RE: Birch Creek Village Properties

I have included my responses in blue in your email, below.

Also, do you recall how the owners association was formed? Was it by the developer at the time of the original restrictions? Or, was it by owners after the lots had already been sold?

Please let me know if you have any other questions.

Thank you for your patience.

Lauren E. Turnbull
Attorney at Law
Hoelscher, Lipsey, Elmore, Poole & Turnbull P.C.
1021 University Drive East
Post Office Drawer DT
College Station, Texas 77840
979.846.4726 - Main
979.314.1166 - Direct
979.846.4725 - Fax

From: Pam Kubiak <pamelajkubiak@gmail.com>

Sent: Tuesday, March 30, 2021 1:36 PM

To: Lauren Turnbull <Lauren@hle.com>

Cc: Birch Creek Village Properties Inc. <birchcreekvillageproperties@gmail.com>

Subject: Birch Creek Village Properties

Lauren,

My name is Pam Kubiak and I am a board member of Birch Creek Village Properties, Inc. I have been in touch with Carla Craig and Karla Dobbs and we have some additional questions regarding our Restrictive Covenants which we need guidance on.

1. In the Restrictive Covenants under Duration of Restriction section there is mention of majority of property owners needed (see highlighted text below). We need to change the wording to reflect majority of votes received since we would never get a majority of property owner votes because all of our property owners do not vote? The prior Board administered this section using the majority of votes received from property owners and not the majority of the property owners in the subdivision votes because no one called them out. We now have a property owner who is questioning our authority to change the covenants with a majority of votes instead of majority of property owners. |

think if the restrictions have not been amended in accordance with that section and those amendments were not approved by the number of owners required by the restrictions, the enforceability of those amendments may be called into question.

Page 3 - DURATION OF RESTRICTION: All the restrictions and covenants herein set forth shall be covenants running with the land and shall continue and be binding upon Birch Creek Village Properties, Inc., and upon its successors and assigns, for a period of ten years from the date of this instrument, unless terminated or amended as provided herein. At the expiration of said ten year term, the restrictions and covenants as herein set out shall automatically be extended for an additional ten year period and for successive periods of ten years thereafter, unless nullified or revised as hereinafter provided. After the expiration of ten years from date hereof, the majority of the Property Owners in the Subdivision may execute and acknowledge an agreement in writing terminating or revising these restrictions and covenants and file the same in the Office of the County Clerk of Burleson County, Texas, and then and thereafter, these restrictions and covenants shall be null, void and of no further force and effect, or be modified or revised as said instrument may direct.

As stated above, we will never get a majority of property owner votes. Is there a way to get around this? Unfortunately, there is not a way around that requirement. State law has set the maximum percentage of owners required to approve an amendment at 67%, but your restrictions only require a majority. Other associations facing the same task have had success with "door to door" attempts.

2. The Right to Enforce section needs to be revised to give the Board authority to enforce the restrictions. Lauren, during your phone call with Carla and Karla, it was discussed that you would help with the drafting of language needed to revise the Right to Enforce section. There are additional questions listed below that need attorney guidance. Birch Creek Village Properties, Inc. does have the right to enforce the restrictions, according to the Fourth Amendment. It was not given the authority to fine or adopt a fine policy. An amendment to the restrictions would be required to give it that authority.

a. Do we need to put the fine schedule in the Covenants or should it be a separate document, mentioning in the covenants that there is a fee schedule and it may be updated from time to time at the Board's discretion? A Fine Schedule would be adopted as a separate document but the authority to adopt and amend such a schedule being at the Board's discretion would be recited in an amendment to the restrictions.

b. How do we enforce them? Providing notices, enforcement actions, and possibly notices of lien. Some associations have found that fines are not generally as effective a tool for deed restriction enforcement as they hoped and may often serve to compound the problem. As a practical matter, those recalcitrant homeowners who choose not to follow the deed restrictions may also generally refuse to pay the fines, which can result in a collection problem as well as an enforcement problem. If the fines are not being paid and are not working, the Association should look at other options including filing suit for enforcement. Further, as is the case with any policy, it must be filed of record and enforced in an even-handed and non-discriminatory manner

c. How many notices to property owners are required before violation fees start? Generally, at least one notice that meets certain requirements must be sent before a fine may be levied.

d. Can fines be added on to our maintenance fee invoicing or would they have to be separate billings? It may be best to keep them separate for your recording purposes, as they are separate from the maintenance fees. It would not necessarily need to be a separate document, but at least a separate notation on the invoice. If there is ever a foreclosure action, you would need to be able to identify what are maintenance fees and what are fines.

e. What recourse do we have for non payment of violation fees? If a court action is instituted to enforce the restriction you could also seek to recover the fines owed in connection with that violation. Fines are not secured by the maintenance charge lien unless the restrictions explicitly provide for such

or expressly consider them to be charges secured by the lien. However, even so, you may not foreclose the maintenance charge lien if the debt securing the lien consists solely of fines or attorney's fees incurred solely associated with fines

e. Can we file liens on these fees if not paid and are these liens only applied to that property owner. For example if an owner has outstanding violation fees and they sell their property what happens? If the restrictions explicitly provide that fines are secured by the maintenance charge lien, a notice of lien could be filed and a title company would require those be paid if the property is sold through a title company, but that lien could not be foreclosed if it only consist of fines or attorney's fees incurred solely associated with fines

f. If the violation continues can the fine be added to for each time period the violation is not corrected? Additional fines may accrue, but fines should generally not be allowed to accumulate indefinitely.

When time permits, please get back to me with your estimate of time to study and answer our questions. We would be able to have another phone conversation with you to discuss these matters. Our next board meeting is April 10. Is this enough time for you?

Thank you for your time Lauren!

Pam Kubiak
512-627-5097

pamelajkubiak@gmail.com

Attachment #3

Pool sign cost

From: Danna Anders (danna6414@gmail.com)

To: janethancock2506@gmail.com; bryanp@vulcansteel.com; pamelajkubiak@gmail.com;
ylrse63@gmail.com; billyjhancock603@gmail.com; ktd7114@yahoo.com;
birchcreekvillageproperties@gmail.com

Date: Tuesday, May 4, 2021, 03:08 PM CDT

attached is the revised price sheet adding the alcohol sign if that is what the majority approves.

It will be slightly more depending how many "911" and "no lifeguard on duty" signs we order.

danna



sign cost sheet.xlsx

14.3kB

POOL SIGNS

DESCRIPTION	SIZE	COST	SHIPPING	TOTAL PRICE
Pool Rules - custom made	24"x18"	\$ 52.75	\$ -	\$ 52.75
Keep gate closed - 2 pk	10"x7"	\$ 9.99	\$ -	\$ 9.99
Warning - no lifeguard on duty	10"x14"	\$ 11.99	\$ -	\$ 11.99
Men/Women bathroom door		\$ 8.99	\$ -	\$ 8.99
Notice - enter at own risk. Not responsible for injury or accidents	8.5"x10"	\$ 12.99	\$ -	\$ 12.99
Notice - lifesaving equipment for emergency use only	10"x14"	\$ 14.08	\$ -	\$ 14.08
In case of emergency dial 911	10"x14"	\$ 12.95	\$ -	\$ 12.95
Emergency phone	8"x12"	\$ 14.99	\$ -	\$ 14.99
no pets allowed in pool area	10"x14"	\$ 11.99	\$ -	\$ 11.99
STENCIL - no diving	8" letters	\$ 13.00	\$ 6.00	\$ 19.00
Do not enter pool - covid symptoms	10"x7"	\$ 10.99	\$ -	\$ 10.99
no alchohol sign	8"x12"	\$ 7.99	\$ -	\$ 7.99
			\$ 6.00	\$ 188.70
				total estimat \$ 194.70

#3

On May 4, 2021, at 7:55 AM, Bryan Patton <bryanp@vulcansteel.com> wrote:

Thanks Carla.

Here is a copy of the HOA calendar.

RE:pool signs, I approve Danna purchase the necessary signs and be reimbursed.

Hope everyone has a blessed day.

-Bryan

#3

Re: pool signs

From: Pam Kubiak (pamelajkubiak@gmail.com)

To: danna6414@gmail.com

Cc: billyjhancock603@gmail.com; birchcreekvillageproperties@gmail.com; bryanp@vulcansteel.com; ylrse63@gmail.com; janethancock2506@gmail.com; ktd7114@yahoo.com

Date: Tuesday, May 4, 2021, 10:12 AM CDT

Thanks Danna ~ Your work on the signs is very much appreciated! I vote to proceed with ordering the signs !

On Sat, May 1, 2021 at 1:34 PM Danna Anders <danna6414@gmail.com> wrote:

I have attached information on pool signs. All are on AMAZON except the custom pool rule sign.

If you have any questions please let me know.

Thanks,
Danna

#3

Pool signs

From: Carla Craig (ylrse63@gmail.com)

To: pamelajkubiak@gmail.com; ktd7114@yahoo.com; janethancock2506@gmail.com;
danna6414@gmail.com; bryanp@vulcansteel.com; billyjhancock603@gmail.com

Cc: birchcreekvillageproperties@gmail.com

Date: Tuesday, May 4, 2021, 07:21 PM CDT

Y'all do what you want with the pool signs. I approve anything under \$225.

-cjc
Sent from my iPad

#3

Info on pool signs

From: Danna Anders (danna6414@gmail.com)

To: billyjhancock603@gmail.com; birchcreekvillageproperties@gmail.com; bryanp@vulcansteel.com; ylrse63@gmail.com; janethancock2506@gmail.com; ktd7114@yahoo.com; pamelajkubiak@gmail.com

Date: Wednesday, May 12, 2021, 06:54 AM CDT

Just wanted to update everyone on pool signs. I will be out of town until Sunday but the signs are being shipped to carla's address.

The no diving stencils will need to be painted on the concrete. I believe you have to clean the cement first but I'm sure it will say.

Orders should start arriving today and if I get an email notifying me of any delays I will let Carla know.

Danna

--

Sent from Gmail Mobile

Birch Creek Village Properties (BCV)

Contract for Common Area Grounds Maintenance

Beginning April 1, 2021 through August 31, 2021 Alice/Kenny Shaffer will be taking care of the grounds maintenance for the BCV common areas (club house, swimming pool and subdivision entry) for a monthly payment of \$225.00 to be paid to Kenny Shaffer by check from Birch Creek Village Properties.

BCV to provide the following:

- Push mower to use inside the swimming pool area

BCV to provide reimbursement (receipt must be submitted)

- Gas for push mower
- Cleaning supplies
- Ant and Weed killer
- Maintenance for mower

Maintenance Schedule

Summer Maintenance – During the open pool season as defined in the BCV Calendar (May 21, 2021 – Sept. 30, 2021)

Swimming Pool, Bath House and Club House areas

- Mow, weed eat and blow weekly on Wednesday the day the pool is closed for cleaning. If inclement weather on that day mow as soon after as possible.
- Clean restrooms 3 times a week – empty trash and make sure area is clean.
- Use ant and weed killer as needed.

Front Entry

- Mow weekly
- Weed eat and blow as needed
- Use ant and weed killer as needed.

Winter Maintenance – During the closed pool season.

Swimming Pool, Bath House and Club House areas

- Mow as needed (mow before the Board Meetings) to keep the weeds down. During the spring time the area may need to be mowed more often.
- Mow/mulch the falling leaves as least once per month.
- Clean restrooms once per week – empty trash and make sure area is clean.

Front Entry

- Mow as needed and keep leaves mulched.

Any sign of broken equipment or vandalism should be reported immediately.

Name: ALICE SHAFFER

Signature: Alice Shaffer

Date: 4-1-21

Birch Creek Village Properties
HOA

Attachment #5

MD Pool Service

2845 US Hwy 290 West
Brenham, TX 77833
info@mdpoolservices.com
http://www.mdpoolservices.com/

✓ Janet motion to JH
and DA
all approved.



Estimate

ADDRESS

Karla Dobbs
112 Cowboys RD
Somerville, Texas 77879

ESTIMATE # 1001
DATE 04/09/2021

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Monthly Service Charge 1	Pentair Multiport 2in sand, Tagelis 261185 including tax	1	207.97	207.97T
	Monthly Service Charge 1	Install estimate per hour, 2 hours max to install multiport	2	75.00	150.00
	Monthly Service Charge 1	Parts, plumbing and supplies estimate for multiport		20.00	20.00

This is a quote to install the multiport. Extra charges may be incurred due to old or outdated plumbing or equipment. MD Pool Services is not responsible for any repairs or services not listed in the quote.

SUBTOTAL	377.97
TAX	14.03
TOTAL	\$392.00

Accepted By

Accepted Date

*Late fee of \$10.00 will be assessed on unpaid accounts, including those with chemical balances, as of the 15th of the month.

#5

Re: Estimate 1001 from MD Pool Service

From: Karla Dobbs (ktd7114@yahoo.com)
To: quickbooks@notification.intuit.com
Cc: birchcreekvillageproperties@gmail.com
Bcc: janethancock2506@gmail.com
Date: Wednesday, April 14, 2021, 12:39 PM CDT

The Birch Creek Village Board approved this estimate from MD Pool Service

Thank you
Karla Dobbs
BCV HOA Secretary

On Friday, April 9, 2021, 09:19:43 PM CDT, Janet Hancock <janethancock:

----- Forwarded message -----

From: **MD Pool Service** <quickbooks@notification.intuit.com>
Date: Fri, Apr 9, 2021, 9:10 PM
Subject: Estimate 1001 from MD Pool Service
To: <ktd7114@yahoo.com>, <janethancock2506@gmail.com>

To: Birch Creek Village HOA

Please review the estimate below. Feel free to contact us if you have any questions.
We look forward to working with you.

Thanks for your business!
MD Pool Service

#5

----- Estimate -----

2845 US Hwy 290 West
Brenham, TX 77833 US
979-966-3020
<http://www.mdpoolservices.com/>

Estimate #: 1001
Date: 04/09/2021
Exp. Date: \$392.00

Address:

Karla Dobbs
112 Cowboys RD
Somerville, Texas 77879

Date	Activity	Description	Qty	Rate
04/09/2021	Monthly SePentair	Multiport 2in sand, Tagelis 261185 including tax	1	207.97
04/09/2021	Monthly SeInstall	estimate per hour, 2 hours max to install multiport	2	75.00
04/09/2021	Monthly SeParts, plumbing	and supplies estimate for multiport		20.00

SubTotal:
Tax:

Total: