

Bayshore Breeze

Waldport, Oregon

January 2021

Planning Committee Axed

The Board of Directors voted to remove the entire Planning Committee.

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STR Petition

Petition circulating in county to restrict Short-Term Vacation Rentals.

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Dogs on the Beach

Reminder to residents about cleaning up after dogs on beach.

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Three Members Join Bayshore Board

By Leslie O'Donnell

Three new members are sitting on the Bayshore Board of Directors, thanks to two surprise resignations that were tendered at the Jan. 16 Zoom meeting and one that occurred in October 2020.

Approved to fill the vacancies were Tom Hurt in Division 4, Don Patterson in Division 2, and Shelly Woodke in Division 3.

As the board was discussing filling Terry Pina's Division 2 seat, vacant since her resignation last fall, Michael Bradshaw of Division 3 and Hollis Ferguson of Division 1 announced they were resigning for health reasons.

When the meeting began, only Pina's Division 2 seat was vacant. Hurt, Woodke and Patterson had applied to fill the vacancy, and introduced themselves at the meeting.

Hurt said he and his wife had moved to Bayshore in 2017, after buying their house in 2014. Noting he has always been involved in places where he lived, he said he served 12 years on the Oregon City school board and two terms on the Oregon City Chamber of Commerce. "We love the community and are glad to be here," he said.

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From the Editor

I have resigned from the position of editor of the Bayshore Breeze, effective immediately. This edition is the combined work of myself as well as the new Board of Directors. Please contact the Bayshore office with items to include in future editions as well as suggestions for stories. I have enjoyed meeting many Bayshore members through my work at the Breeze, and hope to see many of you in the future as we all enjoy life at Bayshore.

**Leslie O'Donnell,
editor**

New Board Members

Continued from page 1

Woodke said she has been a Bayshore homeowner for 10 years and would like to be more involved. She is a licensed Realtor in Alaska and said she has volunteer experience with schools and Homeowners Associations.

Patterson noted he was on the ballot to run for the seat now held by Kathi Lenz last year and said he lost by one vote. He lives in Division 2, which has not had representation on the board since Pina resigned.

He was previously director of a statewide arts organization in Ohio and has lived in Bayshore since 2017. "It's my turn to give back to the community," he said.

Because filling the Division 2 vacancy takes priority as there was no one on the board from that division, Woodke withdrew her name, only to have Bradshaw announce his intention to resign from the board and allow Woodke to take his post.

Ferguson then announced his intention to step down as well, and Patterson, Woodke and Hurt were voted in to fill the three vacancies. Both Ferguson and Bradshaw said they were resigning for health reasons.

Ferguson later spoke out to say, "I wish we would get out of kindergarten...We have really great members in our HOA (Home Owner's Association) and we need to put aside anger."

In a marathon virtual meeting on Zoom, the board also heard the resignation of Leslie O'Donnell as editor of the Breeze early in the meeting, and following an executive session, removed all members of the Planning Committee. Planning Committee members are appointees by the board, not employees (see article page 3).

Correction: Shelly Woodke does not have an active real estate license in Alaska or Oregon.

Tree Complaint, Resignations Occupy Board

By Leslie O'Donnell

In a Jan. 16 Zoom meeting that was at times contentious, the Bayshore Board of Directors spent more than four hours to address a lengthy agenda, with action taken to remove the entire Planning Committee (see story page 3) and to fill what ended up being three board vacancies (see story page 1). Absent from the meeting were board members Mark Mugnai and Bill Nightingale.

In meeting business, the board:

- Heard from member Deanne Cook about a Sitka spruce on her property that has been the subject of two written complaints about view obstruction to the Planning Committee. Cook and her husband, board chairman Mark Cook, are opposed to cutting the tree and argued that it is a natural tree, existing before Bayshore was founded in the 1960s.

Mary Lou Morris, co-chairman of the Planning Committee, noted old photos that she said do not show the tree. An arborist hired by Deanne Cook said measurements show the tree to be 93 years old. The Planning Committee questioned the age of the tree, but board corporate secretary Kathi Lenz said she had done her own research and said "they were pretty much in line with the arborist's."

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Planning Committee Removed by Board of Directors

By Leslie O'Donnell

In a surprise move following a late afternoon executive session at the Jan. 16 Zoom meeting of the Bayshore Board of Directors, the Board voted to remove from office immediately all members of the Planning Committee.

Few members of the public were present when the Board returned to public session after 5 p.m.

President Mark Cook offered a motion to remove and replace the Planning Committee. The only board members opposed to the motion were Phillip Arnold, the board liaison to the Planning Committee, who was included in the removal, and Tom Hurt. Don Patterson voted in favor of removal, after saying he thought the plan had been to abstain for a 14-day period.

Board member Shelly Woodke said, "making a change is not wrong. It's good to have a fresh vision and fresh direction."

Cook called for a special board meeting in three days, with no time set yet for the meeting, but Lenz later said the board had instead communicated with each other via email and approved a motion for an acting Planning Committee made up of Pat Lenz, Jeff McElhannon, and Shelly Woodke. The motion was made by Mark Cook and seconded by Kathi Lenz, with an 8-0-1 vote in favor, Mark Mugnai abstaining. During the Jan. 16 meeting, then Planning Committee member Norman Fernandes read a letter from the committee to the board, and asked that it be included in the minutes. The committee wrote:

"The past few months have been difficult for the Planning Committee (PC). There seems to be a breakdown in communications between the PC and the BOD. Things have deteriorated to a point where one BOD member stated that the PC may have falsified information 'but probably not.' The PC works for Bayshore and has no vested interest in the work we do other than stating the truth in our dealings in Bayshore and following up accordingly. Any action we take is to follow our C&Rs, By-laws, Policy & Procedures and Guidelines for Determination the best we can.

"As of today, we feel that the present BOD does not have the same adherence to our Bayshore laws, but instead seems to be returning to a 'good ole boys' mentality from Bayshore's past that treats regular members differently from friends and others on the BOD." The letter was signed by all members of the Planning Committee.

After the meeting concluded, a letter to all members of the Planning Committee - Mary Lou Morris, Co-chair; Tim Brubaker, Co-chair; Norman Fernandes; Robin Adcock; Phillip Arnold – emailed by Kathi Lenz; signed by Mark Cook and Kathi Lenz, and dated the evening of Jan. 17, states: *"Effective immediately the above mentioned members of the committee are relieved of their duties. Each member is required to turn in all keys that access any and all Bayshore inc properties, planning committee files, notes, equipment, or anything else pertaining to planning committee business. This needs to be done at 0900 on 1-19-2021. The Board would like to thank the members for their years of work and dedication to the HOA."*

The email also cites Article V Section 2 of the HOA (Home Owner's Association) Bylaws and Policies, relating to election and removal of "all other officers, agents and employees of the corporation," and Procedures Section B2 Duties and responsibilities of the Board of Directors Paragraph 2.

Board and Nominating Committee Seats Open

By Leslie O'Donnell

If you'd like to have a hand in Bayshore Beach Club operations, consider running for a seat on the Board of Directors in May.

Nominating Committee

In February, the Board of Directors is slated to select a board member and two members-at-large to serve on a nominating committee. The board member cannot be the president or a member eligible for reelection in May.

The members at large are to be appointed by the board; the board member is elected by the board.

That committee will be charged with presenting a slate of board candidates at the April meeting. Other candidates can be nominated from the floor at the annual meeting in May, when the board election takes place.

Nominating committee members must be selected not less than 90 days before the annual meeting in May and should expect to contribute four to eight hours per month during the nomination process. The chairperson, elected by the committee, reports to the board of directors.

Nominating committee members seek candidates from divisions that will have one or zero representatives. Ideally, all seven Bayshore divisions should be represented on the board.

Board Seats Open

Terms of office expire this year for board president Mark Cook (Division 1), Phillip Arnold (Division 5) and Jim Davis (Division 5), and the persons elected in May will serve three-year terms.

The seats filled by appointment to the board (Don Patterson, Division 2; Shelly Woodke, Division 3 and John Hurt, Division 4, in January will be up for nomination in May at the annual members' meeting, per Policies and Procedures Section B5, number 4.

According to the Bayshore Beach Club Policies and Procedures Manual, the Board of Directors is to have no fewer than five nor more than nine members; they serve terms of up to three years. Directors are limited to no more than two consecutive terms, and no more than two directors can come from any single division, with all divisions represented if possible. Information about division borders is available at the Bayshore office.

Board members are expected to place the interests of the community above their own. The board conducts all the business of the corporation, including regulation of the use of common property, monitoring of Beach Club finances, disbursement of funds, enforcement of the C&Rs (covenants and restrictions), and setting of policies. More details about board members' responsibilities can be found in the Policies and Procedures Manual, available at the Bayshore office.

Board members do not receive compensation for their services, and an individual board member may not speak or act on behalf of the board except as authorized to do so by official board action. Additionally, a board member cannot take official action that may result in financial benefit to themselves, their relatives or a business with which the board member or his or her family is associated.

Ballot Petition Circulates on Vacation Rentals

By Leslie O'Donnell

Bayshore Beach Club homeowners could have the opportunity May 18 to express their views on short-term vacation rental dwellings (STR) in low-density, R-1 and R-2 neighborhoods, if a petition circulating throughout the county brings in the required number of signatures of registered Lincoln County voters.

At the October meeting of the Bayshore Board of Directors, a resident noted that rentals caused problems with noise and alcohol use, and increased the need for security that could lead to more expense for homeowners.

Since then, several residents have been involved with obtaining signatures from fellow homeowners on a petition to put the question on the May 2021 county ballot. A task force of Bayshore residents has also been formed, led by Jill Stone. Monica Kirk of Depoe Bay, a member of the steering committee of 15neighborhoods.com, said the petitioners use data provided by the county.

The petition would alter STR licensing in the unincorporated parts of the county, and the ballot measure would:

- Prohibit new STR licenses in neighborhoods zoned R1A, R1 and R2 (low density, single-family residential).
- Phase out STRs within five years, with hardship exemptions available. A process would allow residential subdivisions to request downzoning to allow for STRs.
- Reduce STR occupancy from three per sleeping area plus “two for the house” to two persons per sleeping area and unlimited children under age 2.
- Base STR occupancy on number of bedrooms, parking spaces and septic system capacity.
- STRs in zones R1A, R1 and R2 would become “non-conforming uses” of real property, limited to owners on record at the time, and not transferable to new owners.

The county passed a temporary moratorium on new STR licensing that lasts until Dec. 31.

Information about the petition is available at 15neighborhoods@gmail.com. The petitioners ask that people mail the signed petitions by Feb. 1, 2021. Petitions will be taken to the county clerk's office by Feb. 17 at 5 p.m. Those unable to print the single signature petition can contact 15neighborhoods.com.

Board Announces Office Manager's Termination

A letter from the Bayshore Board of Directors and sent out to all members states: “A lot of things have changed since the beginning of the pandemic, and there are more changes to come for Bayshore. The first of these changes has arrived.

Bayshore's office manager, Kathi Loughman, has been terminated as of Monday, Jan. 11, 2021. Some may feel this was an error, others may think this is a good thing. Either way the action will cause other changes in the foreseeable future until permanent measures are taken.

Some of the anticipated changes that may occur include expanded office hours to better serve you....We appreciate your patience during this transitional period.”

State Law Requires Cleaning Up After Dogs on Beach

By Leslie O'Donnell

We all know the beach is a peaceful, beautiful place, and Bayshore residents are fortunate to have the ocean virtually at their doorstep. But there's not much more annoying than having to clean up after someone else's dog instead of enjoying a relaxing walk. It's not the dog's fault, but it's unfair – and illegal – to leave the dog's waste for others to clean up. The problem rests with the owner.

At the Jan. 16 Board of Directors meeting, President Mark Cook said members have asked the board to address the problem by adding dog waste containers to beach accesses 2 and 3 in Bayshore. He then moved to buy those containers for the two beach access trails, and Kathi Lenz seconded, but in response to a question, Cook said he did not know the cost of the containers, nor who would empty them, although members thought Facilities Manager Bob Tunison had emptied the container behind the clubhouse in the past.

The board unanimously approved an amended motion to investigate the cost of the two containers and supplies, and bring that information to the next board meeting. After the meeting, Bayshore resident Rebecca Hayden said she would give Cook information she received from the park ranger who works at Bayshore's beaches about the cost and purchasing options for the containers. Beach ranger Doug Sestrich noted that if he sees a dog owner failing to remove their dog's waste, the owner can be fined.

According to the Oregon State Parks website, "pets are to be controlled at all times, and excrement must be immediately removed from roads and rights-of-way."

If you bring a dog to the beach, you are responsible for its behavior. That means:

- Removing the animal's waste while in the ocean shore state recreation area. The dog's handler is responsible for cleaning up after the pet.
- Exercising direct control over the animal while in the ocean shore state recreation area, i.e. the beach. "Direct control: means the animal is within the unobstructed sight of the handler and responds to voice commands or other methods of control."
- Carrying a leash or restraining device at all times while in the ocean shore state recreation area and promptly leashing animals at the request or order of a park employee.
- Thus, dogs can run free but must be under direct sight and voice control, and the owner must carry a leash at all times.
- Preventing animals from harassing people, wildlife and other domestic animals. The dog owner, not the state, is liable if a pet injures someone.
- And, ensuring animals are not hitched or confined in a manner that may cause damage to any natural resources on the ocean shore.

While different areas of Bayshore's beaches are in different Oregon jurisdictions, in all instances the handler must clean up after the pet, and the dog must be under direct control – voice or leash – and within unobstructed site of its handler. If the dog is off leash, its handler must carry a leash at all times.

More information about dogs at the beach can be found on the Oregon State Parks website at oregonstateparks.org under "Pawsitive Information."

Board Meeting

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Morris also said that what was decided at the meeting will have great influence on future complaints.

Although Morris said Bayshore requires the tree age to be determined by the HOA's aerial photos, questions were raised about the clarity of those original photos.

Deanne Cook called those photos "inaccurate at best and unclear."

Deanne Cook said she could not find an arborist, certified and licensed, who lived at the coast, and said arborists are trying to stop tree topping, which she said impedes the root system.

Lenz noted that at a prior board meeting, the board agreed that the Cooks should hire an arborist. "I move to accept that report (from the arborist) and put that to the board," she said.

Further discussion ensued, including from Planning Committee member Norman Fernandes, who said the committee had not been allowed on the Cook property.

Deanne Cook concluded, "This is my fight, not Mark's. I'm not going to kill a tree."

As angry voices continued, Lenz moved to stop discussion, saying it was not productive, and asking to accept the arborist's report. Hollis Ferguson seconded the motion. The motion passed, with Ferguson, Michael Bradshaw and Lenz in favor, Phillip Arnold and Jim Davis opposed, and Mark Cook abstaining. A more extensive report on the tree issue can be found in the January minutes, recently mailed to members and available at the Bayshore office.

- Elaine Ferguson presented a report from the Policies and Procedures Committee, with only corrections such as grammar and punctuation made. Discussion arose about the committee membership, which consists of Elaine Ferguson and Kathi Lenz. Morris noted two at-large members are required. Bayshore member Vivian Mills said one member and one liaison does not constitute a committee.

No action was taken, but Kathi Lenz said later that the board will seek to fill the open seat on the committee and present that person's name at a future meeting.

- Lenz raised the issue of a petition that had circulated concerning the removal of Mark Cook as board president because of his alleged unwillingness to address a tree issue on his property, as well as his alleged refusal to wear a mask at a previous meeting. Allegations were made that the petition, which does not list a chief petitioner, originated with the Planning Committee, which Morris and committee member Tim Brubaker denied. The petition has 72 signatures.

"The petition seems moot, given the board's decision on the tree," Lenz said. Hollis Ferguson claimed the petition should be dismissed because the petitioners were incorrect in thinking Cook was in violation.

No one admitted to be the originator of the petition.

Hollis Ferguson said, "Impartiality is important. The board is not about emotions and feelings. The petition doesn't have any merit. Is this a witch hunt?"

Lenz again said the petition was irrelevant and moved to disregard and dismiss the petition because the board had not adjudicated the tree matter prior to the petition's circulation. The motion was approved unanimously with Cook abstaining, and with him agreeing to wear a mask at meetings.

- Heard Jill Stone summarize proposals from a task force she heads on STRs (short-term vacation rentals), with the goal of board presenting a proposal to

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Board Meeting

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the Lincoln County Commissioners. Proposals include density per platted subdivisions and occupancy based on septic tank capacity rather than number of bedrooms. Stone will present additional information at next month's meeting and will bring up other policies for the board to consider about STRs at that time.

- Following an executive session, the Board voted to give Facilities Manager Bob Tunison a \$500 bonus and a 3 percent raise.

For a more extensive look at the board meeting, see the minutes, which were emailed out Jan. 21.

HOA Board Decision on Cook Tree Complaint

HOA members Mark and Deanne Cook received a complaint about their tree. They were asked to reduce the height of the tree. Based on their research, they concluded that the tree is an original tree. According to the covenants and restrictions, and the policies and procedures, the height restrictions do not apply to original trees. The Cooks provided to the Planning Committee the formula that they used to determine the age of the tree. The Planning Committee rejected the formula, found against the homeowners, and submitted a fine against the Cooks.

The Cooks appealed to the HOA Board. They then hired an ISA certified master arborist from Corvallis, Oregon. The expert has been an ISA certified master arborist for 34 years. The HOA Board reviewed the expert's report, found it credible and relevant, dismissed the fine, and found for the Cooks against the Planning Committee. The Master Arborist's Report is included in the issue of The Breeze.

Mark Cook exercised his rights as a Homeowner to appeal the decision of the Planning Committee. He recused himself from all deliberations or votes concerning this issue.

Don Patterson

The Arborist Report **Copied letter below.**

RE: *Determining the age of a mature conifer tree on the property 1705 NW Carter Court in Waldport Oregon*

December 4, 2020

On Friday December 4, 2020 I did a site visit to view and assess the tree located at the north west corner of the property approximately 10 feet from the corner of the house at the deck area. The tree is about .3 miles west on the mean high tide line of the Pacific Ocean with no barriers or buffers to the salt spray, wind and other effects of the ocean between the tree and the tide line. The tree appears to be a Sitka Spruce (*Picea sitchensis*) 60 inches at DBH (diameter at breast height, 4.5') The height is estimated at 35-38 feet. The tree is in relatively good health, although its shape and form are affected by its location near the ocean influence. This specimen has a double leader that splits about 3 feet from the ground and the two leaders seem to graft back together about 7 feet from the ground.

Sitka Spruce trees are native from southeast Alaska south into northern California. They are best adapted to cool, moist maritime climate. It is shade- and salt spray tolerant, and shallow-rooted, growing in brackish bog water and the soils found nearest Oregon's ocean dunes and coastal beaches, and on the barren windswept headlands. Under ideal conditions they can reach up to 200 feet tall. Specimens growing in stressful conditions as this one is (coastal salt spray, sandy soil, summer drought) may only reach 40 at maturity, sometimes not reaching this height when high winds and salt spray keep their growth in check.

The only way to truly determine the age of a tree is to count the growth rings. This can be accomplished by cutting a representative tree down in a stand and cutting the rings. This defeats its purpose in this case since this is a single specimen which the owner wants to preserve. Another method is to do an increment bore into the tree and pull out a plug to the center of the trunk and count the rings. This method is used in some situations; however, it does injure the tree and can be a location introducing infection and contribute to the decline of the tree.

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The International Society of Arboriculture (ISA) developed a formula to determine the age of a tree (by species) with a growth factor assigned to it sometime in the 1980s. This growth factor is based on ideal conditions and does not take into consideration variables such as environmental stress. A Sitka Spruce is not on the species list, so using a similar growth rate tree like a Douglas Fir or Norway Spruce that is on the list would give a growth rate factor of 5. Given that this tree resides in a location that is adverse for its ideal development I would assess the age in excess of this factor I have used a conservative stress factor of 30%. I need to add, this ISA formula to calculate the age of a tree using the growth rate factor is not currently recommended because of the many variables affecting tree growth that only a professional can assess. This exercise in determining the age of this tree is my professional assessment based on this formula and my experience as an arborist.

I have used three approaches and arriving at a tree diameter at breast height (4.5').

Method #1: This tree has a double trunk that splits at about 3' from the ground, at 4.5' the diameter of the trunk is 19". ($60"/3.14$). Based on this the age is unmodified age is estimated at **95 years old**.

Method #2: ISA methodology recommends measuring the trunk at the smallest circumference below the lowest branch. At 3' off the ground, just below the split the circumference is about 51" and diameter of 16". Based on this the growth rate factor **81 years old**.

Method #3: Another approach is to calculate the individual trunks at 4.5' and average them to arrive at 15" diameter and using the formula **75 years old**.

Adjusting the age factor with my assessed stress factor I have assessed the tree methods as follows:

Method #1: 95 years plus the 30% stress factors = **124 years old**.

Method #2: 91 years plus 30% stress factors = **105 years old**.

Method #3: 75 years plus stress factors = **98 years old**.

Conclusion

Therefore, it is my professional opinion based on the examination of this tree, its location, the species and over 45 years' experience as a horticulturalist and 35 years as a practicing ISA Certified Arborist and Board Certified Master Arborist, that this tree is most likely in a range of age from **98-124 years**.

Comment on Topping

You informed me that you were given an option to remove the tree or top it to open up a view for uphill residents. Regarding topping the tree, this is a practice that the ISA has been actively working to educate arborists and trees owners since the 1980s to stop. Topping trees does two things, as identified by Alex Shigo, tree pathologist, who revolutionized the arboriculture industry in the 1980s. First, topping potentially creates a hazard tree when it regrows to compensate for the pruning. Second, topping is considered a "crime against horticulture" in that it destroys the natural architecture of the tree relegating it to an artificial unnatural appearance.

Sincerely,

Cliffon J Cope

Cliffon Jeff Cope

Board Certified Master Arborist ISA

Landscape Contracting Professional #15122

Pest Control Applicator lic #AG-1017619CPA

General Manager, Home Grown Gardens LLC

To the editor:

Several years ago the Bayshore Board of Directors appointed five members to the Bayshore Planning Committee. As stated in the Bayshore Bylaws, Article V Section 5, the Planning Committee is appointed "for the purpose of carrying out and enforcing the covenants, restrictions, terms and conditions of the various Declarations of Covenants and Restrictions, and any amendments".

At the January 16, 2021 regular Board of Directors meeting, a motion was made and passed to "remove all current members of the Planning Committee." No reason for the removal was given. The members of the Planning Committee were "immediately relieved of their duties" sent to them by email from Kathi Lenz on January 17, 2021 at 6:59 p.m.

The members of the past Planning Committee – Mary Lou Morris, Tim Brubaker, Norman Fernandes, Robin Adcock and Phil Arnold - want the Bayshore membership to know we have enjoyed working with members to approve construction plans and resolve C & R violations. We will miss working as a team for the betterment of Bayshore.

We hope the current Board of Directors and the Planning Committee they will appoint will adhere to all Bayshore governing documents as well as Lincoln County codes and requirements. It is hoped there will not be a repeat of a situation that took place in 2006, resulting in a lawsuit against the Bayshore Homeowner's Association, three members of the Board of Directors, a Planning Committee with no experience, and the builder. This lawsuit cost the Bayshore Homeowner's Association over \$100,000 as well as increased insurance rates.

The plans for a new house on Northwest Bayshore Loop were not complete when approved on May 23, 2006 by three of the Board Members, who also took on the duties of the Planning Committee. A Planning Committee formed later in 2006 stated in a report dated December 5, 2006, "Why would a height variance request be approved without a stipulated maximum height limit, or a neighbor survey? The primary fault for the mistakes made lies with those whose signatures approved the action." A stop work order on the construction was issued and of course the resulting lawsuit.)

Mary Lou Morris

To the editor:

We purchased a home in Bayshore about three years ago. What we found at Bayshore was a laid back, friendly, and quiet community. We were excited to live in a place where the first words of the Articles of Incorporation state: "June 5, 1966 The purposes for which this corporation is formed. ... are 1. To foster and maintain acquaintanceship and friendship among the members of the BAYSHORE BEACH CLUB, INC through social, sporting and recreational events; ... "

Last Saturday's (Jan. 16) Board meeting belied Bayshore's purpose. When I tried to present the Policies & Procedures Committee report to the Board, I was interrupted, felt disrespected and bullied by members of the Planning Committee. In fact, I was unable to complete my prepared comments. I am confused about what they hoped to accomplish by this behavior. Did they want the Policies & Procedures Committee to throw out 20-35 hours of work that was to simply reconcile (grammar, spelling, numbering; no substance changes) the new additions to the Policy & Procedures document? Let me tell you, this was not a glamorous assignment.

This is a community. We are neighbors. And by age, we are also all adults. Someone once said, "Why can't we all just get along?" I doubt anyone who is invested enough in this community to volunteer is going to sell their home and leave. We are better than this.

Let's give each other a little grace and try to make Bayshore the best it can be. This has been a very long year with lots of fear and disappointments, but we have to communicate and work together so that Bayshore may live up to the first words of its Articles of Incorporation.

Elaine Ferguson

To the Members:

It is with great sadness that we see Leslie O'Donnell resign from the Breeze. This edition of the Breeze was her final edition. I wish her the best and thank her for her work over the last year.

The board now needs to fill the Communications Committee, we are also taking applications for the Planning Committee and there is an open position on the Policies and Procedures committee that we hope to fill in the February. We need volunteers. If interested, please submit a letter of interest to baybeach@peak.org.

Kathi Lenz Director District 7**To the Members:**

I became a member of the Board on Saturday afternoon, January 16, 2021, but only to fill Terry Pena's seat until May, 2021. I talked to my neighbors on Tuesday and Wednesday about their concerns and complaints. I promised honesty and transparency. As I was going door-to-door in Division 2, I heard a rumor that I found very upsetting. Some resident HOA members believe that members of the Board of Directors own Short Term Rentals (STRs). Further, my neighbors believe that the Board members goal(s) are either to expand their ownership(s) or build wealth from their current STRs. Because I am new to the Board and just met most of the Board members on Saturday, I contacted my fellow Board Members to find out if they owned STRs in Bayshore. Below is what I learned:

Shelly Woodke, "I do not own, nor have I ever owned, at STR in Bayshore or anywhere else."

Don Patterson, "Jill and I do not own and never have owned a Short-Term Rental, in Bayshore or anywhere."

Kathi Lenz, "I have never owned a STR, and certainly do not intend to use my Bayshore home in that manner."

Mark Cook, "Myself, Mark Cook and wife Deanne have owned a house in Bayshore for 3 years. It is not an str. We also intend this house to never be an str."

Phillip Arnold, "I do not own, nor have I ever owned, a STR in Bayshore or anywhere else."

Bill Nightingale, "We don't own a STR"

Mark Mugnai, "The house I live in is my permanent residence. It is the only house I own".

Jim Davis, "We don't own and never have owned any str anywhere."

Tom Hurt, "I do not own, nor have I ever owned, an STR in Bayshore or anywhere else."

I ask those in Division 2, do you think we should ask all people running for the Board if they own an STR in Bayshore? Do you think owning a STR in Bayshore is disqualifying as a conflict-of-interest? Please let me know.

I have said to those in Division 2, if you hear concerning rumors or have questions, please let me know. I will do my best to learn the facts and report back. If I do not know an answer or am having difficulty learning the facts, I will let you know! Bayshore was formed in the spirit of community ... the spirit of community is why we moved to Bayshore ... and communication is one tool to maintain that spirit.

Don Patterson Director Division 2

Facilities Report

Bob Tunison, facilities manager for Bayshore, submitted his written report at the Jan. 16 Board of Directors meeting.

Items included:

- Recommendation to purchase wireless system at \$649.99, to replace the current system that does not have signal strength to service current needs or multiple accesses at the same time. The cost to rent a router from the current provider is \$192 per year. The purchase was approved from contingency funds.
- Twenty-six electrical outlets and power switches in the clubhouse were replaced. Remaining replacements should be complete before next board meeting.
- Boulders were moved to the southern edge of the gravel parking lot across Oceania from the clubhouse. Signs have been on order since October to replace and expand on current signs in the parking lot. Signs are expected to be available by early February.
- Request to board to approve \$300 for heavy-duty cleanup of yard outside Tunison's apartment in the clubhouse. This upkeep has been skipped for years. Tunison said he would pay any excess over that amount himself.
- Tunison said a request is anticipated for money to cover replacement of current lawn sprinkler system with a professionally installed system. There may not be enough water pressure to adequately cover the area requirements. To solve that problem, "it may be necessary to have a professional company redesign the system and hook it up directly to the main water line servicing the clubhouse. Cost unknown.
- Tunison said there will be a possible request to expand on number and type of plants in the pool area. No cost amount is available.

The Tree - By Michael Bradshaw

There has been a lot of speculation and rumor about the tree on Mark Cook's property and how the Board handled the situation. There have been accusations of improper conduct, bullying, pandering, and favoritism. I cannot say why other Board members voted the way they did. This response is an attempt to clarify only my vote by providing as much information as I can. My fervent hope is that I manage to present the information with FULL disclosure from both sides of the issue. Any missing information is due to my imperfect memory and not an attempt by one of the parties involved to hide it.

The Board is responsible and ethically bound to stay as neutral as possible in judging matters between members, whether or not one of the members is also on the Board. However, as with most contentious disagreements, this one required Board members to work only with the facts and opinions presented by both parties and information the Board obtained from informed neutral sources. Mark Cook exercised his rights as a Homeowner to appeal the decision of the Planning Committee. In keeping with ethical standards, he recused himself from deliberations and votes concerning this issue.

Everyone has an opinion, and everyone is entitled to his/her opinion. Because I believe all members are intelligent and capable of drawing their own conclusions, I will provide as much evidence available to the Board (to the best of my ability) and let you form your own opinion. Every member who reads this issue of the Breeze will have the same information to consider. You can decide whether the Board was justified in their decision.

The situation of the tree started with a complaint about its height to the Planning Committee from another member. I am unaware whether the complainant(s) discussed their concerns with the Cooks. I believe the Planning Committee performed their due diligence in determining the overall situation between the parties.

After several exchanges between the Planning Committee and the Cooks, the Planning Committee presented to the Board a request for a fine. The Cooks contested the fine, as is their right. At the time, the Board (with Director Cook absent by request) discussed the information and decided to

table the decision on the fine to allow further research while awaiting the Cooks' hiring an arborist for a professional opinion.

All of the arborists contacted by the Board stated there are three methods for aging a tree as indicated below from most accurate to least accurate:

1. The most accurate way to age a tree is to cut it down and count the age rings. I don't think anyone would consider this an appropriate or desirable solution.
2. The next most accurate way to age a tree is to bore a hole in the trunk and count the rings of the sample. All of the arborists contacted indicated that this could be harmful to the tree because it creates a possible ingress for parasites and diseases. Therefore, this option was understandably unacceptable to the Cooks.
3. The least accurate, but most desirable, method of aging a tree is a formula using the diameter of the tree (obtained by dividing the circumference by pi, approximately 3.14) and a growth rate (inches per year) typical of a tree of the same or a similar species.

The formula is diameter divided by the growth rate from a chart of several species ($\text{Age} = D / \text{GR}$). It is important to note **not all species** of tree are on the chart. For those not on the chart, a tree with a similar growth rate is used to estimate the age. There are many other aspects and growth conditions (including soil and weather conditions) used to maximize the accuracy of the formula, which are unavailable to me.

The Cooks presented the formula and their results to the Board. I contacted several arborists (on the coast and farther inland) and reviewed several professional internet sources to verify the formula provided by the Cooks. During the discussions about this formula, I confirmed its validity. I further informed the Board and the Planning Committee that the accuracy of aging a tree using this formula is **+/-30 years**, according to several of these sources.

To confirm the Cooks' measurements, the Division Director and an uninvolved member from another Division measured the tree according to the methods established by arborists. The measurements of the circumference were not identical. They were, however, very close (within 1 inch) to the numbers provided by the Cooks. Hence, the formula, with the measurements obtained by the Division Director (video recorded to confirm correct processes were observed) resulted in similar results and, thereby, produced very similar calculations to those the Cooks provided to the Planning Committee. For the final decision, the Planning Committee also presented a formula to the Board from the internet, which was also discussed.

In conclusion, I will voice the opinion of many members that we are all neighbors of this community. We should be comfortable speaking with each other and attempting to establish a compromise amenable to all involved. The Planning Committee and the Board are, and should be, our last resorts—used when a compromise cannot be agreed upon by all parties concerned.

Bayshore Road District Minutes

Jan. 2, 2001

The Bayshore Special Road District meeting minutes for Jan. 2, 2021:

In attendance: Paul Wellington, chair; Tim Malone, treasurer; and Dennis Engeldorf, secretary.

The minutes from December 2020 were approved. The date for the next meeting will be determined and announced later.

Public Comment: None.

Old Business: A Parker Street resident wrote about the disturbing noise caused by the crossing of vehicles on the speed buttons near his house. It was decided to remove the buttons.

New Business: The board thanked the old board for their years of service. Those members were Glen Morris, 20-plus years; Dick Meloy, seven years; and Lee Davis, 5-plus years. They were thanked for their willingness to help during the transmission to the new board.

- It was discussed and unanimously approved to raise the amount of the security bond to cover the balance of the bank account.
- It was discussed and decided to sign up for FEMA, as it costs nothing and could prove useful in the future.
- A resident reported that a street sign from Corvette Street was missing. It was determined to have been vandalism. Tim volunteered to check on a replacement.
- It was decided it would be advantageous to meet with service companies and become familiar with road design and structural issues.
- It was decided to change the gate code to the storage area.

With no additional business, the meeting was adjourned.

Dec. 20, 2020

The Bayshore Special Road District meeting minutes for Dec. 20, 2020:

In attendance: Dick Meloy, treasurer; Lee Davis, secretary (via phone conference); Barbara MacPhee; Paul Wellington; Tim Malone; Dennis Engeldorf.

The minutes were approved. The next meeting will be announced.

Old Business: Treasurer's Report: The Treasurer's Report dated Nov. 30, 2020 was presented with a balance of \$91,509.

Correspondence: A Parker Street resident wrote about disturbing noise caused by impact of vehicles on speed buttons. This item was discussed and it was acknowledged that permanent speed bumps were the preferred deterrent. The installation cost of speed bumps was discussed as well as questions about their specific requirements. These questions resulted in finding the 2011 Road District guidelines after the meeting.

New Business: Paul Wellington was welcomed as the new chairperson. Tim Malone was welcomed as the soon to be treasurer and Dennis Engeldorf as the soon to be secretary.

For one and a half hours, the new board members asked questions and offered observations about road maintenance and road safety.