

**BAYSHORE BEACH CLUB, INC.**  
**BOARD OF DIRECTORS MEETING**  
**Saturday, August 21, 2021**

**In Attendance:**

Kenn Apel, Director	District 1
Gina Bebek, Director	District 2
Jacque Smith, Corp. Secy	District 3
Carolyn Gardner, Director	District 5
Mark Mugnai, Director	District 6
William Nightingale, President	District 7

**Absent:**

Steve Sager, Director	District 3
Tom Hurt, Vice President	District 4

The Corporate Secretary determined that a quorum was present. The Board of Directors' Meeting was called to order by President Nightingale at 1:03 pm.

President Nightingale welcomed everyone to the hybrid Clubhouse and Zoom meeting. President introduced Kurt and John from Willamette Valley Management Company of Corvallis, who would be speaking at the end of the meeting.

**Approval of Minutes**

It was asked if there were any changes before accepting the Minutes of the Annual Meeting of July 17, 2021 Meeting. Mary Lou Morris of the Planning Committee had sent an email to the Corporate Secretary suggesting that the draft July Minutes be amended as follows: Replace the sentence "That information can be found at Article 2, Section 4 of the Declarations of Covenants and Restrictions" with "That information can be found in the Declarations of Covenants and Restrictions Violations and Fine System."

Motion. Director Bebek moved, and it was seconded by Director Apel, to approve the July Minutes as amended. As there were no objections, the Motion passed unanimously.

**IRS Review Discussion**

President Nightingale recognized that there is a huge divide in the Bayshore community and noted that we should not be like this, it's just wrong. He would like to share some facts about some research that has been done so everyone is on the same page. We are a community and we need to come together. President Nightingale read a statement regarding Bayshore's current tax status. See attached. Members were allowed to ask questions and make comments regarding this topic.

**REPORTS:**

**Financials.** The financial reports for July 2021 were accepted as submitted and are attached. Director Gardner prepared and read the attached recap report.

- As of July 31, 2021 the 2021 Operating fund balance is \$115,998.46.
- As of July 31, 2021 the 2022 Operating fund balance was \$ 180,370.44
- As of July 31, 2021 the Long-Term reserve fund balance is \$369,492.61.
- Accounts receivable balance as of July 31, 2021 is \$43,971.92.
- Late fees and interest have been charged to all past due accounts as of March 31, 2021.
- Current Liabilities including accounts payable and payroll related items total \$7,501.61 as of July 31, 2021.
- There were 5 property transfers in July. Interest income is well below the budget as a result of the maturity of the treasury bills and low interest rates. Since the difference in interest rates are so low, the finance committee is waiting for some additional information from the long-range planning committee and the board about how much of the Long-Term funds can be invested and the length of time it should be held in reserve.
- In a separate report, the recommendation for the new CPA will be presented.
- The usual Vendor detail report is not being presented this month because it wasn't complete. Next month you will be given July and August reports.

**Planning Committee.** Report Submitted. Mary Lou Morris presented the report, and introduced proposed new Planning Committee member Ray Gamel, of Division 1.

Motion. Corporate Secretary Smith moved, and it was seconded by Director Gardner, to nominate Ray Gamel to serve on the Planning Committee. As there were no objections, the Motion passed unanimously.

Revised Planning Committee forms were presented to the Board for their consideration. The majority of the changes had to do with correcting the email and website addresses. See attached forms.

Motion. Director Apel moved, and it was seconded by Director Bebek, that the Planning Committee forms presented to the Board be approved. As there were no objections, the Motion passed unanimously.

The last item was a discussion of the noxious weeds located at 2118 NW View Ridge, D2, B1, L2. After the proper amount of notice was given regarding the violation, and there have no communication from the property owner and there has been no work done to clear the violation, the Planning Committee recommends that the Board issue a \$400.00 fine.

Motion. Corporate Secretary Smith moved, and it was seconded by Director Bebek, to levy a \$400 fine on the property at 2118 NW View Ridge, D2, B1, L2, for failure to maintain the property free of noxious weeds. As there were no objections, the Motion passed unanimously.

**Long Range Reserve & Physical Assets.** Report submitted. Chair Craig Jacobs was absent.

Motion. Corporate Secretary Smith moved, and it was seconded by Director Bebek, to nominate Kenn Apel to serve on the Liaison to the Long-Range Reserve and Physical Assets Committee. As there were no objections, the Motion passed unanimously.

**Facilities.** Report Submitted. Facilities Manager Bob Tunison presented the report.

Beach Access. Bayshore is working to “re-open” beach accesses 67B, 67C, and 67D and requested money for surveys. This amount was previously approved.

New Pool Pump. The replacement pump for the pool’s filter system was received and installed on August 4, 2021. Shortly after being installed, a leak developed in the new pump between the motor and the pump housing. A replacement pump is being shipped to Bayshore at no cost. When received, the defective pump will be returned. Mr. Tunison will be able to complete the removal of the defective pump, replacement of the new pump, and re-wiring of the new pump to the power source without having to utilize outside vendors. While awaiting receipt of the replacement pump, the defective pump is running and Mr. Tunison has been able to deal with the resulting leak so that no damage from the leak occurs.

Facilities Manager strongly suggests that Bayshore order an additional pump now. The reasoning is that the expected lifespan of our pumps is 10-12 years. That would imply that there is a reasonably good chance that the remaining pump that wasn’t replaced has an expected lifespan from this point perhaps as short as one to two years. The replacement pump which Bayshore just purchased has been discontinued. This means that while some of these pumps are currently available, once they are purchased, Bayshore will be forced to purchase a completely different pump which will definitely entail re-plumbing the filters piping configuration to accommodate the new pump configuration. It will also very possibly necessitate the purchase of two of the newer models should the pump specifications of the new model not match the specifications (highly likely) of the just purchased, older model, in order to avoid having one pump “over-powering” the older model. The cost of the current model is \$799.00. The cost of the newer model to meet Bayshore’s needs is currently \$1,299.00. While there may well be a lower priced model available between now and the failure of 2nd pump, the point being made is that by spending \$799.00, Bayshore is buying itself an extended life of 10-12 years before needing to consider the more costly alternative in the near future. Facilities Manager requested that the Board authorize an expenditure of \$799.00 now for the purchase of an additional pump in order to avoid this problem.

Motion. Director Gardner moved, and it was seconded by Director Apel, to approve the purchase of a backup replacement in the amount of \$799.00 for when the oldest pump fails. As there were no objections, the Motion passed unanimously.

Pool Leak. On August 11, 2021, American Leak Detection’s technician inspected the pool in order to determine the source of the current leak in our pool’s piping system. The technician spent over three-hours inspecting the full length of the return lines to the pool from the filters as well the suction lines running from the drains at the bottom of the pool to the filters. Having found no leaks in either of these major lines, the technician tested another line and found the leak coming from one of the pipes leading from the compromised skimmer system. It will cost approximately \$8,000 to \$10,000 to dig up and repair a pipe from the skimmer system that simply does not work and never could have worked the way it was designed. Mr. Tunison’s proposed solution is to reroute the piping in the filter room so that the pump currently dedicated to the non-functioning skimmer system (where the leak exists) is re-plumbed so that it is tied into the main drain suction lines. If the failed skimmer design and leak is totally bypassed, Bayshore avoids would an \$8,000 to 10,000.00 repair, and Bayshore retains the same filtration efficiency in the pool. The cost of this repair is an estimated cost of \$300.00.

Motion. Director Apel moved, and it was seconded by Director Gardner, to approve the “pipe bypass” plan at an estimated cost of 300.00. As there were no objections, the Motion passed unanimously.

Gravel Lot Fencing. Facilities Manager brought to the Board’s attention that he is able to get the large boulders at a substantially lower price than previously thought. The boulder fence will outlast the wooden fence and require substantially less maintenance. The wooden fence was approved by the Board for \$3,139.00 in the July 17, 2021 Board Meeting, whereas with the reduced costs of boulders the new cost would be \$2,230.00. He asked the Board to approve this in an amount not to exceed \$2,500.00.

Motion. Director Apel moved, and it was seconded by Director Bebek, to approve the enclosure of the gravel lot with boulders instead of the wooden fence approved in July. The new amount will not exceed \$2,500.00. As there were no objections, the Motion passed unanimously.

**Safety Committee.** Report Submitted. Roger Smith of the Safety Committee reported that on Saturday, August 14, 2021, the Safety Committee held an open house at the Emergency Preparedness Cache up on Hilton Street across from the Fire Station. The cache holds emergency supplies for all of Bayshore and also individual supplies that each lot owner can place inside. They had 17 people visit the cache and ask questions and it was a great success. Plans were made for future openings on a quarterly basis. Dates to be announced.

Roger Smith was saddened to report that Chair Bill Uhlman had resigned from the Safety Committee due to conflicts with the Board Liaison and the direction the Committee was headed. Karen Fitzgerald and Roger Smith will be acting as co-chairs going forward.

**Policies and Procedures Committee.** Report Submitted. Chair Elaine Ferguson made a lengthy statement about her personal motivation for volunteering and her experiences and difficulties on the Policies and Procedures Committee.

Chair Elaine Ferguson gave the Committee’s Report and had three recommendations. First to update the language regarding Member in Good Standing. Second was to adopt a calendar of recurring annual BOD duties and events. The task of updating the calendar would be assigned to the Corporate Secretary. Third was to use “Bayshore Beach Club, Inc.” or “BBCI” to describe our HOA throughout the Policies and Procedure Manual.

Motion. Director Apel moved, and it was seconded by Director Bebek, to strike the current wording:

“Membership:

The membership of the corporation shall consist of and be limited to the owners or purchasers of lots, tracts, and parcels in the area described in Article III of the Articles of Incorporation. Membership rights extend to the spouse, domestic partner or common law spouse. (ORS 93.180)

The privileges and facilities of the Club shall be extended to the spouse and children of a member, and may be extended to guests, under such rules and regulations as the Board of Directors may prescribe. Updated pursuant to BOD action 3/20/21

Member in good standing:

A member in good standing is defined as above and has all dues, assessments, and fees current.

Updated pursuant to BOD action 3/20/21”

And replace it with the following wording:

“Member in good standing:

Any person who owns property in Bayshore, has paid their dues, and has no outstanding liens or fines is in good standing.”

As there were no objections, the Motion passed unanimously.

The adoption of an official Calendar of recurring annual Board duties was tabled.

Motion. Director Apel moved, and it was seconded by Director Bebek, to use ““Bayshore Beach Club, Inc.” or “BBCI” to describe Bayshore/the HOA throughout the Policies and Procedure Manual. As there were no objections, the Motion passed unanimously.

**Communication Committee.** Corporate Secretary Smith reported that Leslie O’Donnell has resigned as the Editor of the Breeze, she will be sorely missed by the entire Bayshore Committee. The new website is up at BayshoreBeach.com. All of the Planning Committee’s forms will be uploaded to the website after they are approved at the August Board Meeting. Just a reminder that all communications to the Board should be sent directly to the Office email at office@bayshorebeach.com.

**Social Committee.** Report Submitted. Acting Committee Chair Roger Smith advised that due to the rise in Covid cases in the county, both he and Ila Hamilton feel that all Bayshore Beach Club social activities should be tabled at this time and will continue to monitor the situation weekly before deciding on hosting parties and events.

**Good Neighbor Committee.** Report Submitted. Director Bebek gave the report for the Committee as Chair Erin Allman was traveling. The committee submitted the final wording to the P&P Committee for final approval. The goal is to make it more proactive and less reactive actions to raise awareness, education and communication. The committee also had discussed creating a more balanced community and would like to nominate full time resident Vivian Mills to be on the committee.

Motion. Director Bebek moved, and it was seconded by Director Gardner, to nominate Vivian Mills to serve on the Good Neighbor Committee. As there were no objections, the Motion passed unanimously.

**Finance/Budget.** Director Gardner wanted to thank Mary Lou Morris and Dan Gardner for offering to volunteer on the Finance Committee.

Motion. Director Gardner moved, and it was seconded by Director Bebek, to nominate Mary Lou Morris to serve on the Finance and Budget Committees. As there were no objections, the Motion passed unanimously.

Motion. Director Apel moved, and it was seconded by Director Bebek, to nominate Dan Gardner to serve on the Finance and Budget Committees. As there were no objections, the Motion passed unanimously.

There was discussion about hiring a new CPA since Bayshore's previous CPA retired. To decide which CPA firms to review, the committee looked at six firms which were recommended by various people on the board and members of Bayshore. The criteria for the firms were that they were recommended, had some positive web presence and said they had experience preparing tax returns for 501 C(4) organizations. Three firms fit the criteria and made offers to Bayshore. One of the firms was extremely expensive. The other two firms had competitive bids. Of those two firms, the committee recommended Stone & Associates, Certified Public Accountants One Centerpointe Drive, Suite 130 Lake Oswego, Oregon 97035. The fact that two committee members knew and trusted this firm influenced the committee's decision. When Dan Gardner was chair of the Chamber of Commerce of West Linn he met and worked with Mike Stone and Lisa Lynne. He has recommended them to several people and organizations and all have found them competent and easy to work with. Director Gardner has worked with Stone and Associates for several years to prepare the Gardners' personal income taxes. All of our communications with the firm have been via e-mail and telephone, so the distance wouldn't be an issue. The firm has extensive experience working with nonprofits and 501 c(4) organizations. Director Gardner was sent a list of items that should be prepared in advance to assist in making the tax preparation go smoothly. Vicki Cabral was shown this list and thought there would be no problem providing this information.

The other issue that was discussed was the recommendation from Jerry Musial that part of Bayshore's funds be placed in an account earning higher interest. At the current time, there aren't many options. Until the finance committee receives some guidance from the board or from the Long-Range Planning committee, it is impossible to know how much money Bayshore has to "invest" and for what time period.

Motion. Director Gardner moved, and it was seconded by Corporate Secretary Smith, to hire Stone & Associates as Bayshore's CPA. As there were no objections, the Motion passed unanimously.

**Sand Lobby.** Report Submitted. President Nightingale read the report as Chair George Kressley had resigned and feels that the Board should decommission the Sand Lobby as a board committee.

#### **UNFINISHED BUSINESS:**

**Accessibility Task Force/Beach Access.** Report Submitted. Director Apel presented the report. The members of the task force are: Kenn Apel, Debra Barnes, Paula Brubaker, and Vivian Mills.

The task force is investigating potential access points, including: i) the beach access at 66C, given that it is relatively level and has parking spaces associated with it, and ii) the clubhouse itself. With this latter option, an elevated walkway could be built off the top deck of the clubhouse (west side – already accessible by a ramp) leading to a viewing platform at the first sand dune. With this latter option, Task Force members will obtain three estimates of costs to construct the elevated walkway and viewing platform.

**Office Administrative Positions.** Corporate Secretary stated that Bayshore had concluded its search. It was explained that Rose Bradshaw had decided not to continue in her position, so Bayshore has hired two new employees. Kathy Drossler is the new Office Specialist, and Vicki Calbral is the new Bookkeeper. Please

welcome them the next time you are in the office. If you need to send them an email, they can be reached at office@bayshorebeach.com.

**Surveys.** Director Apel mentioned the Monkey Survey that had been sent to members to complete. The information is being collected for long range planning for Bayshore. There have been 165 responses as of August 21, 2021.

#### **NEW BUSINESS:**

**Canal Committee.** Liaison President Nightingale reported that the Canal Committee had its first meeting earlier that day at 11:30 am before the Board Meeting. In the past, there have been a lot of ideas but there hasn't been much follow through. Bayshore will be contacting the previous engineer to get an updated recommendation.

**HOA Management Company.** President Nightingale introduced Kurt Powell of Willamette Community Management of Corvallis. Kurt Powell discussed the several different levels of management services his company offers and he suggested that the Board figure out what it would like help with and they could create an Ala Carte pricing list. There were several board and member comments and questions.

#### **MEMBERS COMMENTS:**

1. Kathi Lenz – Planning Committee's Report on Cook Tree (M1)
2. Duane Hayden – IRS Issue
3. Jeff Mcelhannon – Planning Committee Issue regarding his Shed, see attachment
4. Mark Cook – HOA Issues (absent)
5. Shelly Woodke – Planning Committee – trees
6. Norm Fernandez – Committee Memberships (Did not speak)

**Adjournment.** The meeting was adjourned at 3:43 pm.

Minutes prepared by Jacque Smith, Corporate Secretary

President Nightingale's statement regarding Bayshore's current tax status.

Let me be clear that I will list facts, and I will also give an interpretation of my conclusions. Facts are things that can be verified. My interpretations are not facts.

#1. The purpose of Bayshore as described in the Articles of Incorporation.

- Fact: Article 3 section 1 gives the purpose of Bayshore: The purposes for which this corporation is formed are ... To foster and maintain acquaintanceship and friendship among the members of BAYSHORE BEACH CLUB, INC. through social, sporting and recreational activities and events; and for these general purposes to [obtain and maintain] parkways, playgrounds, open spaces and recreational areas, tennis courts, beaches, floats, piers, clubhouses, swimming pools and/or swimming areas, bathhouses, places of amusement, community buildings, community clubhouses and in general community facilities appropriate for the convenience, entertainment, relaxation, use and benefit of its members.
- Interpretation. These words describe a social club. Although nothing resembling the term "homeowner association" appears in the document, it clearly describes an association of people who own property in Bayshore, so it is in fact an association of home owners. Technically, not really home owners, because anyone who owns a vacant lot is an owner, so technically it is a property owners association. However, the IRS recognizes a Property Owners Association as an entity that is more of a government association and clearly does not describe Bayshore. So, homeowner association is the common term that more closely describes Bayshore.

# 2. The purpose of Bayshore as described in the Bylaws:

- Fact. The two introductory sections of the Bylaws address the purpose of Bayshore:  
Section 1. The corporation shall be conducted as a non-profit social and maintenance organization for the purposes set forth in the Articles of Incorporation and for the area of Lincoln County, Oregon, described in Article III of the aforesaid Articles of Incorporation.  
Section 2. The purposes for which this corporation has been created may be altered, modified, enlarged or diminished by the vote of two-thirds of the members present in person or by proxy at an Annual Meeting or at any Special Meeting duly called for that purpose.
- Interpretation of Section 1. This is briefer but not different in substance from the definition in the Articles of Incorporation, and the same interpretation applies.
- Interpretation of Section 2. This section of the Bylaws opens a re-interpretation of the purposes of Bayshore and requires a 2/3 vote of the membership at a legal member meeting. If a 2/3 majority of Bayshore wants to redefine its purpose to be something more like a conventional homeowner association, this section basically says Bayshore can do so. I am personally surprised at this section, because it seems to my non-legal brain that doing so would require amending the Articles of Incorporation, but that may just be wrong. At any rate, clearly, to change the purpose of Bayshore will require agreement by 2/3.

#3 Bayshore IRS status.

- Fact. Bayshore has been filing its tax return as a 501C4 non-profit organization for many years. Unless the IRS has been asleep at the switch for all those years, Bayshore must have filed for and received this status, although I have not found these documents in any public-facing web site.
- Interpretation. 501C4 status has major tax advantages for Bayshore, but it also requires some vigilance not to do things that could result in losing the status. This warning was given recently by the Bayshore CPA. His statement has led to a good deal of (in my opinion) unnecessary misunderstanding and confusion. Which is why I am writing this paper. The official IRS description of



501C4 is appended below, and it specifically includes homeowner associations as possible 504C4 organizations.

#### #4 IRS 501C4 regulations.

- Fact from <https://www.irs.gov/charities-non-profits/other-non-profits/life-cycle-of-a-social-welfare-organization>

A membership organization formed by a real estate developer to own and maintain common green areas, streets, and sidewalks and to enforce covenants to preserve the appearance of the development may be exempt as a social welfare organization if it is operated for the benefit of all the residents of the community.

The term community generally refers to a geographical unit recognizable as a governmental subdivision, unit, or district thereof. There is no precise definition of a community. Rather, whether an area is a community depends on the facts and circumstances of the particular situation. Even if an area represented by an association is not a community, the association can still qualify for exemption if its activities benefit a community.

The association should include with its exemption application evidence that areas such as roadways and park land that it owns and maintains are open to the general public and not just its own members. It also must show that it does not engage in exterior maintenance of private homes.

A homeowners' association that is not exempt under section 501(c)(4) and that is a condominium management association, a residential real estate management association, or a timeshare association generally may elect under the provisions of Code section 528 to receive certain tax benefits that, in effect, permit it to exclude its exempt function income from its gross income.

- Interpretation. The term "community" appears five times in the Bayshore Articles of Incorporation as does the description of Bayshore as a "social" ... organization. The modern US tax code was passed in 1954, and the similarity of language between the IRS 501C4 description and the Articles of Incorporation would seem to be no accident. Were those Bayshore documents written intentionally to make sure that Bayshore would qualify as a 501C4? Not likely that we can know for sure, but the result is that Bayshore was accepted by IRS as a 501C4 organization. I do not know just how great the tax advantages of 501C4 status are vs filing as a 528, but our CPA has assured us that it is substantial.

#### Conclusion.

Fact. Bayshore is recognized by IRS as a social welfare organization. But the IRS description makes it absolutely clear that Bayshore is classified by IRS as a homeowner association version of a social welfare organization.

Fact. Being a 501C4 homeowner association does not change Bayshore's Articles of Incorporation, Bylaws, or responsibilities for maintaining its status as a 501C4 social welfare organization. It really is little more than a name we can use that is more familiar and understandable to most people than "social welfare organization".