



# The Woodsman

A member publication for the residents of Bryant Woods

September 2016

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## Upcoming Events

September 25—Neighborhood Orientation for new board members and interested neighbors, Meet 3:00 p.m. at the pool.

September 30—POOL CLOSES

October 10—7:00 p.m. Board meeting at the home of Linda Fuchs, 18571 Waxwing Way.

November 14—7:00 p.m. Board meeting at the home of Linda Fuchs, 18571 Waxwing Way.

## Of Interest in this Issue:

Annual Meeting Notes, Encroachment Committee Report, CC&R Survey Highlights

## President's Comments

By Kathy Taylor

First, I want to thank you all for letting me be the President this year. It was fun and challenging.

Welcome to our four new board members Corrine Purtell, Gay Heagler, JD Taylor and Sharon Wood. I'm eager to work with each of you. Before our first meeting in October, the board is taking an orientation tour of the neighborhood. We're all excited to look for new projects to enhance our neighborhood. Suggestions and volunteers always welcome.

Based on the votes cast, the Permits are approved. 41 'No' votes were required to defeat the vote. 35 'No' votes were cast. The Easement request was withdrawn.

Let's address the concern expressed about the voting process, which was mentioned as the reason for several 'No' votes. A negative vote was selected because the odds of 75% or more homeowners voting is highly unlikely. It's part of the culture we live in. Voting in local government elections has been on a downward trend for decades. A review of election results reveals that turnout was less than 47% for Clackamas County in the election last May. The high point in state voting was in the 1960s and 1970s when as many as 73% went to the polls. Turnout in national elections is typically 40% (midterm) to 60% (presidential years). More people vote when they are passionate. It is hard to imagine generating passion for updating by-laws to legal standards, or to approving permits. Most votes that our HOA may need are technical in nature, definitely nothing to generate excitement either way. If you read the literature, this is a major problem for HOA type organizations across the country.

One suggestion was to call for the vote at the annual meeting. With proxies, 62 members were represented at the meeting last week, that's 39% of eligible voters. As an example, even if all 62 voted in favor, the initiative still fails.

Going door to door was a suggestion. That might be an option, but it requires substantial effort by board members who are already volunteering considerable time as it is. We start in a hole with non-resident landlords and development companies owning 12% and being unlikely to vote at all.

Not voting is the same as a 'No'. But, if it does come to that, I have dibs on the landlord in Taipei.

How do we overcome apathy and absentee owners? This is a question for future boards to ponder. If you have suggestions, let one of the board members know.

## Secretary's Notes, September Board Meeting

by Jo Anne Lee

Board Members Attending: Kathy Taylor, Ken Kaufmann, Holly Gosewehr, Linda Fuchs, Jo Anne Lee, Claudia Kehoe.

Kathy called the meeting to order at 7:00 pm and opened with introduction of guests. Guest present were: Gina Lochtie and Julius Braunschwels, Dave Bauer, Daniel Rocheleau, Mike Keller, Bing DeBuhr, Emily and Dick Iverson, Brandon Jones and Doug Lindsey.

Guest: Attorney Scott Weiss to answer questions regarding Encroachment Permits.

Ken and Scott Weiss facilitated a discussion of the questions and answers that were submitted by members regarding the Encroachment Permits.

A motion was made and carried that the vote on permits and encroachments are subject to resolutions of legal issues raised by the City of Lake Oswego.

**Financial review:** We will end the year under budget. Looking ahead Holly will obtain more bids for pool deck replacement. Sewer and sidewalk also need repair. Dead trees also need to be removed.

### Committee Reports

**Pool:** The end of season is fast approaching and the only coverage at the pool is on weekends for bathroom maintenance. The last day the pool will be open for the season is September 30th.

**Communications:** The Woodsman cost for this past month was \$71.17 for 100 copies. The permit and annual meeting notice mailing costs were around \$1,000.

**Common Area Maintenance:** There was a walk through the East Common Area with a water engineer. Preliminary report is that the water issue for the downside neighbors on Deerbrush Ave. is not due to a surface water but rather ground water. A formal study would cost \$5,620. Gary and the arborist will walk the common areas to assess needs and develop a multi-year plan.

**Nominating Committee:** Gay Heagler has agreed to serve on the board for the 3-year position, replacing Gary Heligman on the ballot.

**Social:** Nothing new to report.

**Architectural:** 1) 18451 Waxwing St.: replace shake roof with composite, construct swing set in backyard. 2) 4886 Sage Hen Circle: replace roof. 3) 18640 Wood Duck Way: paint house, restain front door & decking. 4) 4861 Sage Hen Way: construct 3'- 4' cedar fence along NW of property adjacent to Common Area; front section facing street will be 6'. 5) 18590 Indian Creek Dr.: replace roof. 6) 4867 & 4865 Sage Hen Way: replace both properties' mailboxes with black, metal double-locking boxes. 7) 4970 Centerwood St.: paint house.

**Annual Meeting:** Committee chairs will give reports during the annual meeting. Cathy Barrett, Jeff Kehoe, Sally Page, Richard Smith, and Gordon Lee will be at the school by 6pm to assist.

**Encroachments Update:** Representatives from the board will meet tomorrow with the City attorney regarding issuing the permits.

Meeting adjourned at 9:00pm.

You can find a lot of information on our website! [www.bwhoa.org](http://www.bwhoa.org)

## Treasurer's Report

Balance Sheet			Profit & Loss - Budget to Actual			
ASSETS	<u>Aug '16</u>	<u>Aug '15</u>	REVENUE	<u>Aug '16</u>	<u>Budget</u>	<u>Variance</u>
Operating Cash	20,306	22,717	Assessments	103,040	103,040	
Reserve & Renewal Savings	<u>50,061</u>	<u>50,021</u>	less Bad Debt	0	0	
Total Cash	<u>70,367</u>	<u>72,738</u>	Finance Charge & Fines	471	730	
Accounts Receivable	13,789	16,162	Other	<u>2,802</u>	<u>1,300</u>	1,243
Less Allowance for Doubtful	-2,000	-2,000	EXPENSE	<u>106,313</u>	<u>105,070</u>	
Undeposited Funds	500	0	Pool Operation	-30,731	-40,450	
Prepaid Insurance	<u>3,178</u>	<u>3,100</u>	Common Area	-9,641	-18,760	
<b>Total Assets</b>	<u>85,834</u>	<u>90,000</u>	Social	-1,532	-3,550	
LIABILITY			Trash & Yard Debris	-4,180	-6,400	
Accounts Payable	<u>3,997</u>	<u>2,189</u>	Communications	-724	-2,300	
EQUITY			Administration	<u>-6,229</u>	<u>-16,900</u>	35,323
Fund Balance, beginning	67,979	77,486	CAPITAL			
Net Income	<u>13,858</u>	<u>10,326</u>	Pool Capital	-26,002	-25,000	
Total Fund Balance	<u>81,837</u>	<u>87,812</u>	Special Projects	-13,416	-5,000	
<b>Total Liability &amp; Equity</b>	<u>85,834</u>	<u>90,000</u>	<u>-39,418</u>	<u>-30,000</u>	-9,418	
			TRANSFER (to) from Reserve	0	15,000	-15,000
			<b>Net Income</b>	<u>13,858</u>	<u>1,710</u>	<u>12,148</u>

### Secretary's Notes: BWHOA Annual Meeting of the Members

by Jo Anne Lee and Claudia Kehoe

The annual meeting was held at Lakeridge Junior High School on September 15, 2016. Board members attending: Kathy Taylor, Ken Kaufmann, Holly Gosewehr, Linda Fuchs, Claudia Kehoe and Jo Anne Lee. Kathy Taylor called the meeting to order at 7:05 with a declaration of a quorum.

**Financial:** The Financial Review report was posted in the room for all to review. This is the first Financial Review that has been completed. Kathy Taylor thanked Stacy Freyer for all of her work this year as Treasurer.

**Architectural:** Linda Fuchs reported there were 67 architectural approvals this year, compared to last year's 44 approvals. There have been a total of 60 Rules Questionnaires returned, which is 43% of those distributed. See the compilation of results in this issue.

**Pool:** Holly Gosewehr reported the pool water quality has been excellent this year. Improvements this year included the resurfacing of both pools, bark dust, decks stained and new tables. Water aerobics was a successful addition this year. Over 30% of the people who used the pool this year were guests of homeowners, except for the month of July. Next year chairs will be replaced. Due to the re-plaster and repair costs, chairs were not purchased this year. Next year we will do preventive maintenance on the toilets as well as improved over-all management of the pool. We are currently receiving quotes for the deck replacement.

**Social:** Kathy Taylor gave thanks to Gina Lochtie for all of her work this year on our social events including, the 4<sup>th</sup> of July parade and pool picnic, Christmas caroling and refreshments and the Easter Egg Hunt. We found that the dumpsters were "too popular" this year. The board is reviewing how best to use this service.

**Encroachment:** Claudia Kehoe reports the board has focused heavily on encroachments this year, with the hope of resolving all encroachment issues prior to the new board being elected. City zoning and easements take precedence over any agreement with the BWHOA. The permits look to be passing. See full report, included.

**Common Area:** Kathy Taylor reported the board has entered into an agreement for long-term tree service and maintenance with “For the Love of Trees”. There are many trees that will need work. Thanks to Ken for assistance in removing the Knotweed, Martine and Holly for the ongoing removal of bamboo and the Heagler-Schwarz family for help in removing ivy. A water engineer has walked the East Common Area and indicated the water problem is likely not from surface water but is from ground water. Don and Pat Flora Smith donated mitigation trees, which will go into the Common Area.

**Election:** Nominees were presented and each gave a short bio and their reasons for wanting to serve on the board. Election for three 3-year terms included nominees by the Board: JD Taylor, Linda Fuchs and Gay Heagler. No nominations were made from the floor. Results were JD Taylor received 63 votes, Linda Fuchs 50 and Gay Heagler 59.

Election for one 2-year term included nominee from the Board: Sharon Wood. No nominations were made from the floor. Sharon Wood received 60 votes.

Election for one 1-year term included nominee from the Board Corine Purtell, who received 56 votes.

Thanks to Ken for his years of service on the BWHOA board. Today is his birthday and Sally Page baked cupcakes in honor of his birthday.

Meeting adjourned at 8:10 PM.

## Encroachment Committee Report

by Claudia Kehoe

*This is the full text of the report given at the Annual Meeting.*

This committee formed in December of 2015 after the survey of the neighborhood was completed. The survey identified the 69 of 160 lots that are adjacent to the Common Areas, and revealed that 43 of those had encroachments. These encroachments range from fences that enclose several hundred square feet of Common area to a few inches of the corner of a deck. They also include landscaping and hardscaping that extends into Common Areas.

Our main focus was to resolve fence placement and other structural encroachments. We wanted solutions that would err on the side of neighborly consideration given that many of these encroachments might have been inadvertently established long ago, or inappropriately established due to poor management practices over time.

We worked with attorney Scott Wyse and drew from previous encroachment resolution advice obtained through Vial Fotheringham, an HOA specialist law firm, to draft a permit that would allow homeowners as long as 20 years to move fences and structures that are encroaching.

Twenty-eight letters with permit offers were sent to those with encroachments over one foot. Only 5 permits were returned, asking for the guaranteed 20 year timeline. By not requesting a permit, all others agreed to properly place their structures when they reached the end of their useful lives per our CC&Rs and Fence Policy. One homeowner felt that neither option was adequate in their case and brought a lawsuit against BWHOA for adverse possession. The suit was settled – contingent on member approval--when the homeowner offered \$4,000 for a permanent easement to the approximately 500 square feet that had long been enclosed and landscaped as part of his property.

On September 2 the Board mailed out a multi-page packet to every homeowner that included a detailed cover letter, the proposed permit and the proposed settlement. We asked the members to vote on these agreements.

As was done with a previous external encroachment and subsequent easement, and on the advice of an attorney, less than 25% opposition would mean passage. Yes and No votes could be mailed in for tallying as long as they had a September 13 USPS postmark. No response would mean no opposition and would then be counted as a “yes” vote. Ballots contained the homeowners’ name and address so we could verify that they were a member in good standing with eligibility to vote.

As of this afternoon (9/15/16) the vote stood at 26 against the permits, 28 against the easement, and 6 ballots in favor of both. This count is conditional on more votes with the Sept. 13 postmark being received.

At the September 12 (Monday) Board meeting, attorney Scott Wyse was our guest to help answer the many questions that arose on social media as a result of this mailing.

The Committee’s take-away from this Q&A and online forums is that: members did not like the voting method, feeling it would set a dangerous precedent for assuming the wishes of the membership. They felt the timeline to vote was too short, many having received the mailing on September 6 and expected to decide by the 13<sup>th</sup>. Some felt that all encroachments should be surrendered on a shorter timeline as those holding them had no right to do so. Others would rather have seen a vote on the permits taken at the Annual Meeting. Some felt they should have been able to vote on the terms of the permit before they were offered to those with encroachments. Others wanted the Board to do a better job of “selling” the idea of these permits.

It was disappointing to hear so many objections so late in the process as we had asked for committee members many times, published our plans and discussions monthly in the Woodsman, sent out a letter to all members outlining our plans, and used this voting process before without any objection.

In the case of the permanent easement, the Board considered it its fiduciary duty to resolve this with as little cost and conflict as possible. We avoided the time and expense of a court case and recouped attorney costs. Since asking the membership to vote on this one easement, this homeowner has withdrawn his suit and will abide by the CC&R timeline and replacement policy.

On September 13, three Board members and attorney Scott Wyse met with the Deputy City Attorney of Lake Oswego. The purpose of the meeting was to discuss Common Area encroachments and related claims for adverse possession. The City Attorney explained that the Bryant Woods neighborhood was created by City ordinance, and that the ordinance required the Common Area remain open to all members. Therefore, encroachments into the Common Area that prevent member access may violate city zoning. Permits issued by the Board, and its policy of structures being properly located when they are replaced are acceptable. But they are subject to the City’s utility easements and City zoning requirements. The City may choose to enforce these at any time. The City Attorney also asked to be notified of any adverse possession claim against the Common Area so that the City could become a party in such litigation.

Our impression was that the City is unlikely to take action if the HOA continues to allow fences to remain until replaced. However if someone filed an adverse possession claim against the Common Area, the City will intervene to enforce its open-space zoning requirement. The Board’s policy of requiring fences be moved to the platted line when replaced is consistent with the City’s position. If a member files a complaint seeking adverse possession, the Board will ask the City to join in the Complaint in defense of the Common Area. The Board has no plans to offer more permits at this time.

This next paragraph comes straight from attorney Scott Wyse: Upon sale of a property which has an encroachment into the Common Area, the Association intend to respond to any inquiry from a title company about such pending sale with an identification of the encroachment and the Association's policy requiring its removal at the end of its useful life.

## CC&R Survey Results

Here are the results of the recent CC&R survey. This is the same handout that was available at the Annual Meeting.

### **BRYANT WOODS HOA - Rules Questionnaire Results**

The Bryant Woods Homeowners Association *CC&Rs (Codes, Covenants, & Restrictions), Articles of Incorporation* and *Bylaws* were recorded in 1981. These governing documents are conveyed with the deed to every lot in our development. They outline basic rules and regulations, but do not give members and the HOA board sufficient guidance, and they can be daunting to read and understand. Policies have been occasionally published in newsletters, but they are inconsistent and forgotten.

Oregon law and our Bylaws authorize the Bryant Woods HOA board to “adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof” and “to exercise for the Association all powers, duties and authority vested in or delegated to this Association.”

Comprehensive written guidelines and rules have never been adopted, and are key components for a well-organized HOA. They ensure that rules are clear, consistent, and enforced fairly to everyone in the neighborhood. They are especially helpful to potential buyers and new owners, and should reflect our common values.

The objective of this questionnaire was to collect input from the Bryant Woods community to assist the board in formulating and adopting written rules, policies, forms and fines. The questions were compiled from problems, complaints and suggestions brought to the BWHOA board over many years.

141 QUESTIONNAIRES WERE DISTRIBUTED; 60 WERE RETURNED (approx. 43%). Owners marked the issues they felt were most important, leaving the rest blank. Questions receiving significant positive support are listed below.

#### **A. GENERAL GUIDELINES:**

1. **42 YES / 13 NO** Should architectural rules apply to “street view only” of lots (i.e. only the front view)?
4. **46 YES / 9 NO** Should there be an announcement in the newsletter prior to architectural walk-throughs?
5. **52 YES / 6 NO** Should the board/architectural committee have expedited approval for some exterior changes, such as window replacements, doors, mailboxes, garage doors, driveways, walkways, siding, decks, railings?
6. **43 YES / 14 NO** Should the board/architectural committee deny Exterior Change Requests that knowingly violate City Code?

**B. RULES & FINES - SHOULD THE FOLLOWING VIOLATIONS BE INCLUDED IN WRITTEN RULES to clarify ambiguity in the CC&Rs? SHOULD THE VIOLATIONS BE FINED if not resolved after an enforcement procedure? How much?**

**23. RULE? 44 Yes / 8 No Unauthorized cutting of common area trees, shrubs, vegetation.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$25, \$250, \$500, cost of replanting, small fine, TBD

**24. RULE? 42 Yes / 9 No Inappropriate use or unauthorized removal of common property.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$25, \$100, \$250, \$500, \$1000, cost of replacement, TBD

**25. RULE? 49 Yes / 5 No Littering in common areas.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$25, \$100, \$500, TBD

**27. RULE? 41 Yes / 9 No Removal of or tampering with common area boundary markers.**

SUGGESTED FINE AMOUNTS: \$0, \$100, \$500, \$1000, cost to replace, TBD

**28. RULE? 43 Yes / 12 No Dog waste left by owner in common areas.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$50, \$100, \$200, \$250, TBD

**29. RULE? 40 Yes / 12 No Pool area use after hours.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$100, \$250, \$500, TBD

**33. RULE? 35 Yes / 14 No Recreational vehicles in street view.**

SUGGESTED FINE AMOUNTS: \$0, \$20, \$50, \$100, \$250, \$10 per day, TBD

**38. RULE? 40 Yes / 14 No Disrepair, clutter, debris or other unsightly appearance from street or common area view.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$25, \$50, \$100, \$250, as is, TBD

**42. RULE? 40 Yes / 14 No Non-operating vehicles stored in street view or common area view.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$50, \$100, \$250, \$500, \$5 per day, high, TBD

**43. RULE? 35 Yes / 13 No Operating a business out of a residence that creates a negative impact on the neighborhood.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$25, \$100, \$500, as is, TBD

**45. RULE? 37 Yes / 17 No Breeding or raising prohibited animals, keeping an excessive number of cats or dogs on premises.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$100, \$250, \$5 per day, as is, TBD

**55. RULE? 37 Yes / 10 No Proceeding with construction of an exterior change that has been disapproved by the board/ARC, or not abiding by the final decision of the board after an appeal process.**

SUGGESTED FINE AMOUNTS: \$0, \$10, \$100, \$250, \$5 per day, as is, TBD

**Great Season Ends at the Pool**  
by Holly Gosewehr

Our neighborhood pool had a busy year:

- Inspection good!
- Replastered big pool
- Barkdusted pool area
- Stained decks, picnic tables and painted bathrooms
- Water aerobics started up again
- Compared other pool maintenance companies
- Bought 6 new umbrellas
- Lifeguard shed fantastic, all everyday use items for lifeguards and maintenance now located inside.

Statistics:

2015 June 943/531 July 1418/471 August 1135/341

2016 June 951/307 July 763/270 August 1020/320

(The first number is the number of neighborhood pool users, the second the number of guests.)

Parties -6. Keys given to about 130 households.

Next year is already shaping up. Here's our to-do list:

- Purchase 4 dining chairs and 2 loungers, also resin chairs. About \$2000
- Replace decks
- Upgrade electrical, \$2200
- Clean sewer line in beginning of season, \$400
- Expand water aerobics to twice a week
- Improve quality of swimming lessons (approximately 17 students in 2016).

Thank you to all of you who called and gave updates about pool condition.

Thank you to the pool committee: Kathy Jaco, Linda Fuchs, Martine Kaufmann, Julie Mercer, and Tava Crim.

POOL WILL BE CLOSED AS OF SEPTEMBER 30<sup>th</sup>.



*Autumn...the year's last, loveliest smile.*

*-William Cullent Bryant*