

## **April 12, 2014 ACBC Board Meeting – unofficial notes by Karen Shaak**

All board members except Chris Hendrickson were in attendance.

The meeting started a bit late as Ed was chatting with the neighboring property owner to the South – Lea (sp?) about trespassing on their property (those that cross their line may not be ACBC homeowners). They claim to be concerned about children building forts on their property and being libel for accidents as a result of beach forts collapsing. Ed made the membership aware.

The board is making a sign-up sheet available at these meetings, again. There is no requirement to sign this to be in attendance. I stopped putting out a sheet because a community member (Gwyn Staton) requested copies of all sign-up sheets. That means your personal private information (your signature) can be given out to any member of the community who demands to have it – don't provide personal information!

I suggest that at the May meeting we sign in as our favorite Mayberry character so a robust sign-in sheet exists. Suzy, you can sign as Aunt Bea!

### **President's report (Ed D.)**

The office phone was replaced with a better instrument; service may improve for both those leaving and answering messages.

Another notice was received from the IRS indicating another 60 days would be required for them to deal with prior year filing issues.

An extension for 2013 tax filing was obtained – the taxes will be filed in May. But, the circumstances that surround filing the 990 form continue to be a challenge:

The Club is required to file a 990 report with its taxes. It is the main IRS reporting form for nonprofits and serves two purposes – it provides information that helps the IRS enforce the laws that govern nonprofits (it enables regulators learn how the Club is spending its funds in order to maintain or lose non-profit status) and it provides financial information about the Club's financial condition – strength and weakness and sources of its income. The 990 suggests that the club have a document retention policy, a whistle blower policy and a conflict of interest policy in place, to maintain non-profit status.

- Document retention has been a challenge for the club. Many of the Club's original documents went missing. And the facility has inadequate storage and inappropriate paper filing conditions (water + paper = badness).
- Whistle-blower policies are common to most non-profits – they provide a method of informing of wrongdoing while holding the informant harmless. The IRS sees this document as an organization's serious intent to remain compliant with non-profit laws via governance - self-promoting reports of misconduct or fraud committed by its officers. If we had a whistle-blower policy when Dustin Frederick reinterpreted the bylaws that clearly state the board has authority to spend \$4,000 (he claimed the bylaws were antiquated) and spent \$12,000 to repair a section of pool fencing what would have happened if we had a whistle-blower policy? Well, generally there would be a mechanism for a member to file a complaint. If not acted upon by the board the complaint must go to external regulators – in our case that is the State of WA and the IRS. From what I can tell, there are no time limits for reporting this malfeasance.

Ed informed the members that Travelers canceled the D&O insurance effective July 17<sup>th</sup> and the insurance agent has been contacted to source another carrier. This also likely means the \$5,000 deductible that needs to be paid for the current lawsuit will be due before the policy ends.

The March minutes were approved.

#### **Suzy's report –**

She reported that the ad hoc committee is looking at 'other things' but didn't allude to what those things are. Very strange that the committee has no charter and the report is about 'things'.

Suzy reported that the Club website is now up-to-date and includes all important documents.

#### **Treasurers Report –**

Steve Morrow indicated that the financial reports are too confusing so only a summary was provided.

\$72k funds are available (unrestricted) and \$78K remain as receivable.

I have no idea of the run rate of payment – how many members have paid their 2014 dues or which bills have been received or paid. I think we deserve real financial reports if they want us to pay money. This isn't an acceptable form of accounting report. I think it is fine to summarize for those that like it this way but the actual reports from QuickBooks need to be made available to those of us that would like to see the detail.

#### **Committees:**

##### **Budget & Finance:**

Dennis Egan reported on the finance committee meeting having occurred. Actuals for 7 years of expenditures were obtained and provided to the committee. Another meeting will occur next week.

##### **Pool Ops –**

Suzy reported that the committee is waiting for a decision from the board to explore opening the pool this summer, the goal being July 1. She stated the committee's first priority is to fill the pool with water, obtain a propane tank/contract and hook it up to the heater and test to see if the mechanical elements work. The committee would ensure all work would be done by volunteers to keep costs low. And the committee estimates that the cost would be between \$25-45k. Suzy wanted everyone to know this was just a temporary solution and not intended as the 'real fix' for the pool.

When I asked Suzy stated that she had contacted Aneta Hupfauer at Island County Dept of Health; Aneta told her that no ADA compliance or upgrade to the VGB valves were required. And, that she would go to the state to get a waiver to open the pool temporarily. Aneta questioned the non-compliance situation of the pool but Suzy indicated that she told Aneta that we were in compliance due to the TRO (not having the pool covered) but that isn't exactly true. The year of non-use of the pool occurred prior to the lawsuit being filed – we were out of compliance prior the filing so this is a lie told to the county. The pool wasn't covered because the members voted to remove it not because of the TRO. (If you want to call Aneta and see what story you get she can be reached at (360) 678-7995)

I personally spoke with Aneta as did Jean Salls last year and she admitted that she can only inspect water quality and had no authority to gain waivers or exemptions for the Beach Club. Yes, we too had heard the tale of the mighty Aneta and her ability to waive us by the Federal Laws from Carol Delahanty. Jean and I visited the county and spoke with the director and asked for this waiver in writing and were informed that Aneta had NO AUTHORITY nor did the county to grant waivers to ADA compliance or other legal requirements to get the pool up and running. All they could legally do was recommend vendors to repair the pool then test for compliance when repaired. The county then asked and

recommended that we place a copy of the both the pool and building consultant estimates on file so their staff would not be confused as to the current condition of the pool – we did that. The director felt that the county employees did not fully understand the condition of the pool and this would prevent cavalier statements and suggestions to open it without being in compliance. We then spoke with the state of WA regarding the potential waiver – they said no and indicated that the time to comply with ADA laws had been exhausted. They provided a link to ADA law extension ([http://www.admiralscovebeachclub.com/ADA\\_final\\_052012.pdf](http://www.admiralscovebeachclub.com/ADA_final_052012.pdf)) and compliance rules. Then they provided a whistle-blower number to report any attempt to bypass these laws – ah, the pesky whistle blower numbers (twice in one meeting report).

Suzy then indicated that Aneta indicated that we could become a limited use pool during this temporary open period. It appears that Suzy forgot to mention those annoying Associates we allow per our bylaws – Associates dictate that we are a general use pool. Joanna Weeks explored this option a few years ago – here is the letter she received that explains the county’s position – we are a general use pool. We can’t temporarily disable our bylaws.

[http://www.admiralscovebeachclub.com/Gen\\_Use\\_Pool\\_1\\_of\\_2\\_002.jpg](http://www.admiralscovebeachclub.com/Gen_Use_Pool_1_of_2_002.jpg)

[http://www.admiralscovebeachclub.com/Gen\\_Use\\_Pool\\_2\\_of\\_2\\_001.jpg](http://www.admiralscovebeachclub.com/Gen_Use_Pool_2_of_2_001.jpg)

I’m not sure why a limited use pool is such a sought after item by a small group of ACBC members. The reason our property insurance is actually affordable considering we have a pool is because we have life guards and no accidents or deaths. If the goal is to eliminate life guards more money will be required if the insurance even allows it to happen. ACBC would be liable if Johnny gets hurt under the limited usage regulations – do you really want that? Crazy talk folks, you’re out on a ledge – no ladder or net for you. This isn’t an adult community we have LOTS OF CHILDREN in the neighborhood. What about all of the weekly rentals on Keystone – they have no ability to swim in the limited use pool (why would they pay for it?).

Recap of the pool committee ask at this board meeting:

- That the board approve \$25-45K to open the pool by July 1 (dollars based on seat of the pants calculation)
- Obtain a new propane tank and contract to fire up the heater and test to determine if it works and presumably enough propane to heat the pool (cost of propane for a season was about \$18k two years ago)
- Use volunteer labor (no consultants) to save money.
- Avoid ADA compliance, VGB valve/drain updates via wink-wink-nod-nod tactics
- Agree that this is only a Band-Aid and not the real solution to the problem
- Use Judge Hancock’s statement that the pool must be maintained but avoid Judge Hancock’s statement on page 5 of the oral ruling “the record shows that the pool needs to be brought into compliance with the ADA among other things” as cause that it must be done.

At the end of the pool committee report Ed looked surprised by the report. He indicated that there was no money in the budget to open the pool this year and it wasn’t likely that the board would ask members to vote for an assessment to temporarily open the pool. He indicated that the committee was confused and that their direction was to prepare information that the board could use for a ballot to be presented to the membership to vote on a long-term solution for the pool (not a temporary fix to open this year). Harry Lynam asked for clarification from the board as to what is required of the committee as it appeared that the board members were not in agreement of the committee’s task.

Hmm, the committee did have a board member (Suzy Palmer) in attendance; I wonder why they were confused? The other board members did not seem at all confused as to the direction given the committee.

Note: if you review my notes of last month (March) providing committees clear direction was of prime importance to Suzy. Clear may have many meanings.

Andy O'Brien asked the board what the money being collecting (the dues) is going toward. He claimed he was paying for nothings and asked why he should continue to pay. He then asked if the pool had opened, would the Club be upside-down (spending without having funds available). Yes, this appears to be the case. Current funding does not support a pool.

Ed explained the budget approved by the members ~ 60k budget based on dues income would not support the pool. The budget was predicated on no pool. If the pool remains closed we need to spend 5-6k to cover it and continue to monitor it – this will likely be the case.

Maria Chamberlain commended Ed on being fiscally responsible with the monies available – a pool would not enable payment of other bills. An assessment for a Band-Aid pool fix wouldn't fly, in her mind.

Steve Morrow discussed the possibility of sending an assessment vote to the membership to pay for a short-term fix. He would like that committee to provide an estimate for a July 1 opening. Hmm, does Steve really believe members will vote to assess themselves over and over? History shows that it wouldn't happen. Maybe he is trying to mollify Suzy and the committee, we'll see.

Harry Lynam indicated that the pool temporary fix would have to be done piece-meal and it couldn't really be estimated, "we just need to keep paying to make it happen" was his comment. He asked if the board could issue a check for \$10K so they could get started; Ed said no that this wasn't possible. The bylaws only enable the board to spend \$4,000 else they must ask the community to vote on the expenditure (unless voted on in the budget per the membership).

Dustin Frederick asked if the committee is requesting money or not. Suzy didn't provide a clear answer and indicated that she wants to work with the other committees and continued to talk about opening the pool this year. Most members in attendance did not seem to want a patch-job solution; being assessed multiple times isn't likely an option that would keep getting a yes vote. Short-term = short-sighted.

Suzy made a motion to move forward with opening the pool this summer but if it becomes cost prohibitive we put our energy into the long-term rehab of the pool. I guess that means she wants to spend up to \$45K and if it isn't running at that time call it an experiment that went wrong and quit. But, Ed had already told her NO money was available?

Kurt asked that Suzy modify her motion to bring the costs back to the board for a vote instead of moving forward with plans to open in July. Like Steve, maybe Kurt is trying to mollify Suzy and the committee, we'll see.

Susie Petterson expressed concern over the time constraint being placed on the estimate to open the pool this year. Time constraints might mean there would be no opportunity to spend and open the pool. Ed discussed that the board could only spend \$4k and if more was required the members had to approve the expense. Good for Ed.

Joanna Weeks commented that a short-term patch didn't make sense to her. Her comment "It is throwing good money after bad." I agree with Joanna – this makes no sense and is irresponsible.

Dustin read Suzy's amended motion that indicates the committees will only 'analyze whether the pool can be opened this summer and for how long and what the cost of temporary repair would be' and added to the motion was a clause that 'the effort would not interfere with long term planning of the pool facility'

The board unanimously agreed on the motion

Jean Salls indicated that an electrical engineer said that the electricity is inadequate to run the VGB valve as it is wired today. It is likely that the panel would require work (upgraded circuit) to open temporarily – maybe a volunteer electrician can be found?

### **Grounds**

Lake – Ed and Nate have been removing grass from the lake. They believe grass is blocking the pipe. Chad and Nate looked into getting a camera to scope the pipe (\$270) to determine what is blocking the water flow. There is some concern that the pipe could be caved in under the road. A decision was made to wait until summer to determine if the pipe is blocked because the level will be lower. A permit with FEMA and other agencies is being acquired to work on the lake level issues.

Maria asked when there would be a meeting of the Grounds committee as she and other members have not been able to participate in grounds work. Joanna Weeks also indicated she would like to participate on some projects and asked when there'd be a meeting and clean-up day. A discussion about the poor condition of the sign on the highway occurred. The sign is mossy and missing parts – makes it look like a dump. Apparently the grounds committee doesn't want to have community members at a meeting, not sure what's up with that as it is a requirement of the committee. Maybe Ed will inform Nate that he has to hold a meeting or get another chairperson to deal with gaining participation by the community.

### **Long Range Planning**

Dustin is the chair and indicated that there had been no meetings.

### **Unfinished business:**

#### **Tract A issues-**

Owners of property on Farragut who abut the ACBC property received a copy of the land survey via certified mail. They also received notice that prior approval and use of a certified arborist is required to cut/maintain the ACBC property. Last month the board reported that a letter was being drafted to the Peterson Trust – owners on Farragut who cut ACBC property without permission. No follow-up occurred to collect on this request for payment, maybe there will be time this month to follow-up.

#### **Ethics standards-**

Suzy reported that she sent a proposed ethics document via email to all board members. Discussion will be online so it can be signed and made available to members at the next meeting. Finding and signing an ethics document seems to present quite a challenge for this board.

### **New Business:**

- A motion was made to change board meetings to the third Saturday to accommodate bank statement receipts. Proposal to move the meeting to the third Saturday of the month would be effective in June.
- Harry Lynam requested the meeting date changes be mailed to all members.

### **Close vs. ACBC findings-**

Dustin handed out copies of the Close ruling indicating everyone must be a member and pay asked it be placed on the agenda. He asked who in attendance had seen it before – at least 6 people had never seen the document. He declared that Hancock’s decision was applicable to all owners in the cove. He believed the document was well-known and disseminated but now realizes that most members don’t read or have knowledge of the court case. We all know that most of the Cove is apathetic and doesn’t read or vote; this is no revelation. If you really want them to know something - go door-to-door.

It is Dustin belief that Brian Dale’s legal opinion contradicts Judge Hancock’s decision that everyone must pay. There are numerous legal opinions that homeowners of Admirals Cove don’t have to become members. Many of the documents filed with the state contradict one another. Some documents are not even filed but referred to as file and recorded. A fair amount of chatter on Nextdoor indicates that some members want out of the Club. Instead of pursuing a vote to change the AOIs and enable an opted-in membership, this board has chosen to enforce payment by all.

### **Collecting past dues-**

Dustin asked Kurt to weigh in on collection techniques that can be undertaken to collect receivables. The board has been discussing punishment techniques to collect in private meetings. Kurt suggested a collection agency and hiring a law firm to file suit against homeowners. He stated that this tactic would only cost 18%. He believes that if a collection is not made then a credit agency be hired to report against the member’s credit.

Watch out new homeowners – HOAism is on the horizon. If only they could foreclose! Recently I have received a fair amount of email from prospective buyers who find this website and ask me about this issue – the concern about buying into an HOA is real and not desirable. Are we losing home sales over this issue – quite possibly?

Dustin requested that the Close decision be disseminated to all property owners to enforce obligations of payment.

Susie Petterson requested that all escrow companies and real estate agencies to be notified.

Kurt indicated that the obligation to inform a homeowner of required membership is on the seller not the buyer. Kurt said he was in favor of notifying companies about the Club’s status by sending a packet of information.

Ed asked which board member would put the package together – Kurt agreed to work with Dustin.

Russell Chamberlain inquired about item 4 of the Close ruling and suggested that people who live outside who use the facilities don’t have to pay so why should homeowners. Fishing season starts in about a week and lots of folks who will be duly enriched and not paying will use the AC beachfront. Cars start lining up at 6:00am; which board member will be enforcing these duly enriched folks to pay or leave the beachfront? Dustin, will you be there handing out the packet to those on the beachfront? No ideas came forth on what to do about that – signs posted just get taken down annually. Maybe the Grounds Committee can hold a meeting and solicit neighbors to help with beach patrol?

March 25<sup>th</sup> was offered as the date members not paid in full are no longer in good standing. A letter will be sent to all dead beats having not paid and a stronger letter was proposed to be sent to those with an outstanding balance greater than one year of dues (>\$138). The current Standing Rules indicate when late fees can be assessed:

*A service charge of 10% shall be levied annually on the amount of all dues unpaid (not to exceed \$25.00) 45 days from annual billing each year. Service charges so levied shall be sent by the Secretary no later than July 15 each year to all members becoming delinquent and on each subsequent annual billing until such delinquent dues are*

*paid. A similar service charge shall be levied and billed on all special assessments six months after the special assessment is originally billed and as each subsequent annual billing until such delinquent assessments are paid.*

Ed discussed that a hydraulic permit must be approved to clear the pipe. Mike King and Chad Nichols are working on some permits. He described the widgeon grass issues related to the pipe. Only mechanical removal of grass from the lake is allowed – no chemicals.

Ed described that a partial financial audit has been discussed. But, nothing has occurred yet. The board does not seem enthusiastic about a financial review; Jean remarked that a financial audit is required (not a performance review). Evidently we still have no plans on how and when to get an audit. \$3500 was approved in the budget and last year's records are among the cleanest to date – this is a good time to audit.

Newsletter – Steve discussed some subjects that could be communicated if a newsletter is sent soon. Steve wants a clarification of rulings in the newsletter. He also suggested notice of a forthcoming assessment vote be placed in the newsletter. Steve made a motion to get one in the mail to the membership by 5/5.

I asked a question regarding findings listed in the Close judgment being recorded against a specific property. My property and those of many others have no such recording in the purchase contracts. The finding on page two, #2 states 'bound by bylaws, AOs, covenants....recorded at the time they purchased their property...' Kurt believes that the term recording does not mean paperwork must be individually re-recorded and can be generalized as recorded over time. He then caveated his statement by saying that real-estate law was not his specialty nor did he practice in WA State. Only the Jet Noise ordinance was filed with two properties I purchased in Admiral's Cove. My current home was built in 1995 and I have the paperwork of my original owner – it is also silent with respect to these recordings. Could it be that many of the purported documents were never filed? Each of my home purchases occurred via separate Title companies. It is odd that neither was able to unearth these filings.

I asked Dustin a question about his assertion of malfeasance by the prior board. If he believes I did wrong by not raising the dues does he believe that the boards representing at least 30 years of not raising the dues also did wrong? He blustered and claimed time limits expired and only claims malfeasance on the part of the prior board. Really? Many boards in the past 10 years did not raise the dues; I don't think the time limit has expired he's simply mad at the prior board for allowing members to vote on the pool. The more of these statements he makes the less support he will get – I give Dustin an A+ in efforts to polarize the community.

If you want to see what malfeasance (wrong-doing) looks like, check out the finances of the 2010 board (Dustin was president). The 2010 books cannot be reconciled and are not auditable. Or, better yet file this statement with the IRS to ask for an audit: <http://www.irs.gov/pub/irs-pdf/f13909.pdf> (there's also a whistle-blower phone number).

Suzy Palmer made the snide comment as to whether I would be putting this information on my blog (as if I should fear her). Of course I'm going to publish this, do you think my perspective shouldn't be represented? Good to know you're reading. Every month about 250+ unique members access my notes – how many read yours?

Maria Chamberlain asked if community members could build a garden on the land where the volley court that isn't used exists. The board seemed to be ok with that.

The meeting ended and a tour of the pool facility was conducted for any interested members. An executive board session occurred after the pool tour.