

The Board of Directors  
Burland Homeowners' Association, Inc.

Report to the Members  
January 16, 2024

1 of 3

For most of the last year we worked hard to locate and organize past files of the HOA. Some Members seem to think that we have withheld records, but that is not true. This Board and two previous Directors tried to gather records for years. Some records are still missing. Those we do have, going back decades, were digitized and published on the website this week in accordance with Colorado law and best practices and are now available for review. Please see the announcement on the website for instructions.

From what we have found, the minutes from past years indicate that the Secretary salary was decided in the October 2008 regular, open meeting, and began payment in November 2008. Somewhere along the way much of the HOA business started to be done in so-called (closed) Executive Session (Board members only) after the regular, public meetings where the more fun, public interest stuff was done.

Numerous decisions on rules and regulations, large donations to organizations unrelated or only distantly related to Burland, decisions that kept the historically private park public with the County and/by engaging in County insurance contracts, were made in private Executive Sessions. According to the Executive minutes of January 2014 two Officers who were a married couple announced their intention to move to Denver. Arrangements were made, voted/approved August 2014 (per Executive Minutes), on salaries, to continue on the Board for ~three more years after they sold their property and moved to Denver. Appointing and/or electing others to the Board who were not fee simple property owners in Burland Ranchettes, even making them salaried Officers, occurred at later times, also. Yet the Bylaws have always required property ownership to even be a Member, much less a Member of the Board.

There are many other financial, policy, rule, etc., decisions that jump off the pages. Salary was proposed for the President in Executive Session in September 2015, then tabled; in Executive Session November 2015 it was revisited with discussion of Vice President pay and so on; a motion was made, seconded and carried to begin paying the President and the Vice President beginning in 2016. The 990s show that the Officer Salaries and Benefits continued through July 2021, with one additional payment made in October 2021 for the month of August reflected in a financial report. The Board elected in July 2021 does not believe that it was aware of this August payment until 2023 when an accounts audit was conducted. Executive Minutes for the June 2021 Meeting are not in the file and we don't know if they exist; or for the Annual Meeting in July 2021. If we find them, we will publish them to the website.

Five of us Board members, three still serving and two who retired, did not know when we served on the old Board that the Officers were paid employees; we don't recall there being discussion, much less votes, on those salaries and employment agreements; recollections the Minutes confirm. Even from the Minutes, we don't know how those decisions were made on an ongoing basis through the years.

According to the April 11, 2020 Minutes, the new Directors, Gene Marsh, Tim Peterson, Beth Fisher and Stuart Rhodes, were not included in the Executive Session that day. A new Director asked in the May 2020 Executive Session, "why is the \$50 Director pay secret"; the Minutes record that she was told that "It's not secret, it was to get people to come on board and show up to meetings." And, "if we paid another entity, it would be an enormous fee. Also, we wanted someone personable of Burland." And in the June 2020 Executive Session: it was noted in the minutes: "So everyone knows what happens in the Executive Session should not be discussed in the General Meeting."

When Tim Peterson and Beth Fisher began researching Colorado nonprofit law and Best Practices in the winter/spring of 2021 and spoke with the then attorney, they asked about the \$50.00 payment each

Board Member received to attend meetings, as they'd not seen such payments in this kind of nonprofit. As a result of the attorney's remarks, Beth stopped taking the payments and soon after Tim and Stuart Rhodes also ceased. Beth then accessed the 990s on irs.gov, where she first learned of the Officer salaries, with Social Security, Worker's Comp, etc.

At some earlier point in time, the Bylaws were changed from "one vote per property" to allow the exception of two persons in the same household to serve on the Board together, essentially granting them two votes on the Board and in matters before the Members, such as Elections. Newer Board Members recall being told it was because the Board couldn't get help, but since it gives one property two votes and dilutes the votes of other Board members and ordinary owners/Members who only get one vote per property, it doesn't seem right. Votes are not person dependent, they are deed dependent, as a residential nonprofit corporation: one vote per Member property. Variances and exceptions to the Covenants were also apparently dealt with in Executive Session; since those directly impact property values and only the property owners can vote on Covenants, which gives them an interest, that is also hard to understand.

In 2003 the August Minutes state that taking the Park public was discussed and a contract signed with the County; the Minutes suggest that the meeting was open. We do not understand why the on-going decisions and contracts changed to being done in Executive Session. In speaking with legal counsel, we have learned that these decisions are also to be made in public Board Meetings, not Executive Sessions, with Members having the right to attend, witness, and comment at appropriate times, and have all minutes published, which we have done with this Board's minutes all along.

When we researched returning the Park to its original private status in 2022, Sheriff McGraw advised that the Park be private for the safety of Burland due to crime, overcrowding at the Park, people from out of town using the Park and even camping there, and wear and tear on the roads. Sheriff McGraw pointed out that with public status his department had no authority to challenge outsiders using the Park. Returning the Park to private allows the department to respond to calls from us regarding trespassing and crime. The HOA Attorney, who protects the Association, said at the October 3, 2023 Special Member Meeting that she would have advised against taking the Park public to begin with.

At the January 12, 2019 (public) General meeting, regarding wording on the proposed bylaws that were being worked on, Sustaining Members were changed back to Associate Members, without a vote. But we learned from discussion with legal counsel that it was not lawful to have anyone not a deed property owner in Burland proper called any kind of member, no matter the qualifier; while we do not know for certain, we believe this advice was overlooked. Together with legal counsel, the current Board created the Friends category in 2022 for the sake of neighborliness and the use of the Park, but it cannot be a voting right, nor can Friends conduct business, according to Colorado Nonprofit Law and the Bylaws.

For that 2019 Bylaws revision it was also stipulated that Firewise was to educate residents and would not be required to perform mitigation, and language to that effect was adopted. So that has been from the beginning. Saws & Slaws has been a wonderful effort, but our insurance and legal professionals advise us that the liability endangers the Association and its assets.

Both our insurance broker and a Member who holds current, active insurance licenses, and our attorney advise that it is very common to require proof of event insurance, in fact, we probably won't find any other HOAs that will even consider a 'premise reservation' (the Pavilion) without the member submitting proof of 'event coverage', which is typically on homeowners' insurance policies and is inexpensive. The coverage protects the event host in case of injury to a guest, the HOA, its Members and the property. Lawsuits happen; liability release/hold harmless forms don't hold up in court according to our insurance broker, the actively licensed Member, and legal counsel. Hold harmless doesn't hold when it's your kid who lost a limb or got burned at a party. Liability awards can be in the millions. Those of us who have

lived here for some time might also remember the Riverbend Restaurant lawsuit; people looking to claim harm or injury sue businesses and organizations for personal gain. Better to avoid/protect against it.

The question of adjacent neighborhoods was settled by legal counsel several times over; e.g., in the last decade when the Mt Bailey area was being considered for District 9, the Minutes reflect that the then attorney said that could not be done because it is not on the Plats, the Articles of Incorporation, or any of the Bylaws ever. By extension, none of the adjacent neighborhoods can be part of Burland Ranchettes or given a vote; they are not on the Plats, the Articles of Incorporation, or any of the Bylaws. Yet somehow that was later changed by a past board. In 2022 our current attorney advised us to correct it when we re-did the Bylaws. Burland Ranchettes property owners have rights, and boards can't take those rights from them just because it seems like a nice, friendly idea or for their own purposes; to do so diminishes the rights of Members and all Burland Ranchettes property owners. Giving others a vote dilutes your vote.

In our ongoing reading of the Minutes, what isn't written seems as significant as what is. When the Treasurer and Secretary moved to Denver, for example, their address was subsequently omitted from the sign in sheets, where others on the Board were listed. Treasurer reports references to salaries were nonspecific, no names or titles, just one line item. The 990s tell the full story to the IRS. But all need to be taken together to understand the history.

We have been as open as the law allows. In speaking with the HOA attorney we also learned that it is improper to put a private nonprofit's business out on social media. All of our Board work is available to the Members. Financial records are provided upon written Member request, per the Bylaws. That HOA business is conducted in meetings open to Members and Friends, and those eligible, but not the public at large, protects the rights of Members. And that is how it was before social media.

These and other issues, we have addressed since September 2021. Contrary to what has been put out on social media (repeat a falsehood enough, doesn't make it true), it was the new Board that agreed in our first meeting, September 2021, not take any money for serving, in compliance with the law. We made certain it was written into the new Bylaws of 2022. Colorado nonprofit law has always governed Burland Homeowners' Association, Inc. These concepts are not new.

Together with the HOA Attorney we revised the Bylaws in 2022 so that it is clear to the Board and the Members what can and cannot be dealt with in different types of meetings. There were many decisions that we were advised by legal counsel are unlawful to be made privately, particularly salaries, donations, decisions on the Park status, contracting with the County for insurance, and so on. The Bylaws are clear.

The current Board took the money that previously went to salaries, pay just to show up at meetings, and large donations to favorite outside charities, and instead put it into the long needed deferred maintenance and upgrades to the Park that some of us recall hearing month after month we could not afford, or were just ignored; we conducted expert tower inspections and work with licensed professional engineers who are experts on this tower; engage an expert communications attorney for tower contract negotiations, etc.; we updated the website and put up our Minutes on the website. We do our business in the light of day.

Members of the Board of Directors are fiduciaries; they can't make it up as they wish. We, as fiduciaries, are charged with protecting the rights and interests of Burland Ranchettes property owners and Members, not our own interests. At the end of the day, the Board of Directors the homeowners elect decides what to do with common money. It has been our goal to put common money back into Burland Ranchettes. And so should be the goal of the next Board. The four main purposes of Burland Homeowners' Association are on the first page of the Bylaws and are, with the addition of Firewise education, the same as they ever were — which we uphold.