



**Board Meeting Minutes  
May 18, 2016  
Orchard House  
4599 Shepherdstown Road  
Martinsburg WV 25404**

**Board Members:** Anne Kask, President, Crystal Lake  
Nance Briscoe, Vice President, Cloverdale  
RosaLee Riggins, Treasurer, Individual Member

**Other Attendees:** Philip Viens, Fairview Place; Nance Briscoe, Cloverdale; Gary & Jean Stewart, Sleepy Creek Orchard; Peggy Pond, Sleepy Creek Orchard; Terry McSweeney, Apple Knolls; Frank & Tina Stottlemyer, Apple Knolls; Patience Wait, Leisure Acres; Keryn Newman, Leisure Acres; Bobby Youngblood, Chesley Estates; Barbara May Smith, Apple Knolls; Larry Lam, Spring Mill Farm; Becky McCarthy, Stonebridge; Anne Kask, Crystal Lake; Bob Ayrer, Spring Mills; Brett Hersh, HBS; Blayne Lytle, River View Park; Ted & Jan Schiltz, Potomac Terrace; Jim Corey, Lake Forest; RosaLee Riggins, Ashton Forest

**Note: This document is provided solely for informational purposes, and no one should rely on it as legal advice. You are strongly encouraged to consult a qualified attorney for advice on any particular situation.**

**Business Meeting:** Ann Kask called to order at 7:00 PM

**Approval of Minutes:** Nance Briscoe made motion to accept the minutes as written and provided to the membership online. RosaLee seconded the motion. Motion passed without objection.

**Treasurers Report:** RosaLee Riggins

Previous Balance:	\$ 8,797.98
Deposits:	\$ 275.00
Expenses:	
Office Max-Sign In Sheet Home Show	\$ 8.41
Nance Briscoe –Silent Auction Home Show	\$ 123.26
Best Buy – Internet Hot Spot	\$ 89.02
Total Expenses	<u>\$ 220.69</u>
Checking Account Balance as of May 18, 2016	\$ 8,852.29

Nance Briscoe made motion to accept treasurers report as written, RosaLee seconded and passed without objection.

**Membership Report:** Nance Briscoe.

Two new HOA Members, One Individual Member  
Chesley Estates -18 home/18 lots.  
Oakleigh Homeowners Association- 25 homes/30 lots  
Kim O'Neil of Glenwood Forest - 250 homes/360 lots

**Old Business:**

**Homeowner's Homework for SWM Properties.** Nance Briscoe stated that the homework was due tonight, 4 or 5 HOAs reported all had property sold. Nance needs to get this information back to David Stiles, Attorney for the State Tax Commissioner for WV. Apple Knolls is the poster child for this. Nance read a letter that she wrote to David Stiles (letter is posted on EPOHOA's website) regarding this issue. There was a lot of information relayed in the letter that EPOHOA expects Mr. Stiles to address and get back to us with answers. Nance made a request to extend indefinitely the deadline for HOAs to submit the questionnaire regarding SWM and was unanimously approved by the board

A discussion regarding why these properties were being taxed in the first place. Common area properties are not taxed because the property is included as amenities on each individual property owner's tax bill and cannot be taxed separately because then it becomes double taxation.

Many HOAs don't know that tax bills were being issued against these properties and subsequently sold at auction for nonpayment of taxes. The HOAs have continued to maintain these properties at costs in the thousands of dollars when they no longer own them.

**New Business:**

**Nominations Committee** chaired by Terry McSweeney received 2 nominations for the upcoming annual election for 1 HOA member of the board. Bob Ayrrer accepted the nomination and Ted Schiltz declined the nomination. 3 additional nominations were submitted before the meeting started Ann Wandler, Robert Finch and Mike Carroll. These nominees must be contacted to see if they will accept the nomination. There is a nomination form online and nominees will be accepted up until the election on June 18<sup>th</sup> 2016 and nominations can be made from the floor. This slot must be filled by an HOA member only.

**Review of Mountain State Land Use Academy Statewide Conference, May 4, 2016:**

Nance attended the conference in Beckley, WV - the materials will be available online and she provided From Liability to Viability, A Legal Toolkit to Address Neglected Properties in West Virginia, several copies that were available. Nance reported an important session where she asked about HOAs learning land use and was summarily dismissed by the speaker, an attorney who responded with, "Their [HOAs] life expectancy is about 30 years, goes into disrepair then usually absorbed through annexation into a town or county, so we have nothing to say about that." All information she received from the conference will be on EPOHOA's website. The material is important and of benefit to HOAs.

**Adjournment:** Nance Briscoe made a motion to adjourn the business portion of the meeting, RosaLee seconded the motion. Motion passed without objection.

**Open Forum:**

**Senate Bill 54:**

There have been questions how WV SB 54 will be implemented. EPOHOA requested Brett

Hersh, Hersh Business Services to attended our meeting to explain Senate Bill 54. He stated that it basically does not change anything; it just clarifies language of the original bill. It does not mean that HOAs will not have to pay taxes on services and goods. HOAs do not pay taxes on HOA assessments. HOAs are “nonprofit or not-for-profit” corporations, they are not “tax exempt” under Federal or State law, these are two separate statuses; therefore HOAs do pay tax on sales and services. HOA assessments are not deductible for homeowners on their taxes. Brett brought several documents and publications regarding HOA taxes, which he left with Nance. The key qualification to be exempt from sales and service tax an HOA must be a certified as a 501(c)(3). “It’s hard for HOAs to comply with the rules if no one understands what the rules are.” Information regarding Bret's client representations are at:  
[http://hbsbusiness.com/index.php/services/tax\\_representation](http://hbsbusiness.com/index.php/services/tax_representation)

**Webber Springs Status:**

Nance and Phyllis have been attending the court hearings on this issue. Judge Silver ruled on the side of the four homeowners and not the Webber Springs HOA. The HOA has files an appeal. Webber Springs' legal costs are upwards of of \$60,000

Prior to June 2016 HOAs were defined as debt collectors under the WV Consumers Protection Act preventing recovery of fines, filing fees, legal/court costs etc., regarding assessments. It was suggested that HOAs review their liens, consider providing a credit to relative homeowners who had paid fines, filing fees, legal/court costs etc., for the last 4 years. All HOAs are strongly encouraged to contact legal counsel for clarification. Do not act on this by our reporting - EPOHOA does not provide legal counsel. WV Senate Bill 614, by Senators Gaunch & Ashley, passed March 10, 2016; and in effect 90 days from passage. At that time HOAs are no longer defined debt collectors thus permitting recovery of fines, filing fees, legal/court costs etc., in accordance with their governing documents.

**Out of Control Board:** One of our members lives in a HOA where the board is out of control: ignores laws and refuses to do anything and attempts to prevent others from being elected to the board that would learn the laws. Board ignores wishes of the membership. It was suggested that they consult an attorney and have a letter written that can be copied and sent to all property owners what the legal and financial risks are to each of them.

**HOA Board Meetings:** All board meetings are or should be open to the membership.

**Education Session:**

Nance Briscoe debuted the new EPOHOA website and showed where everything is now located within the website.

**Next Scheduled EPOHOA Meeting  
June 18, 2016 – 9 AM  
The Orchard House 4599 Shepherdstown Road  
Martinsburg WV 25404**