

Rock Creek Hills Citizens Association February 2013 Electronic Newsletter

Dear Members,

This is the electronic newsletter for the annual meeting and for the first quarter of 2013. The principal issues are scheduling the Rock Creek Hills Citizens Association (RCHCA) annual meeting (Thursday, April 4, 2013), the status of litigation related to Rock Creek Hills Local Park and its immediate future, our general financial situation (including dues), and the election of officers.

Annual Meeting

The RCHCA annual meeting will be held Thursday, April 4, at 7:30 p.m. at Grace Episcopal Day School, 9411 Connecticut Avenue, in the multi-purpose room. The meeting has been delayed to coincide with the anticipated date of a court ruling on the merits of RCHCA's suit to prevent the conversion of Rock Creek Hills Local Park to non-park use, in this case a proposed middle school. The agenda items include the status of that litigation, RCHCA's overall financial situation, and the election of officers.

Rock Creek Hills Local Park Litigation

The RCHCA complaint was filed on August 16, 2103, in Circuit Court against the Montgomery County Board of Education, the County Executive in his official capacity, the Maryland National Capital Park and Planning Commission (the Planning Board), three state agencies, including the Department of Natural Resources (DNR), and the Montgomery County Council. The action against the Council was later dismissed without prejudice by stipulation. The legal issues are such that it was necessary to sue all of these agencies. The number of parties involved increased the amount of filings well above what is normally involved with a significant increase in cost.

Although there are a number of issues related to standing, timing, and the like, there are two principal substantive issues. Somewhat more than 20 years ago RCH Local Park was developed with Public Open Space (POS) funds. Given the use of these funds, the most important issue is whether RCH Local Park may be converted to non-park use without full DNR review of the conversion, and if conversion occurs, whether the converting agency must replace the current park with the same amount of new parkland providing replacement recreation facilities of the same recreation value as those now located in RCH Local Park. DNR is arguing that because the improvements arising from this development of our park are more than 20 years old no DNR review of the facilities is necessary nor is their replacement by the converting agency required. We believe there is

no statutory or other legal basis for this position. In addition, we are arguing that the law bars the Planning Board from transferring the RCH Local Park for non-park use unless it finds that RCH Park is not needed for park purposes, which speaks for itself.

Since the filing of the complaint, the parties have completed most factual and document discovery, and each side has prepared motions for summary judgment based on the record to date. In our case, that effort has meant preparing such a motion containing multiple counts against each of the defendant parties, as well responding to each of the defendant's arguments about why our actions should be dismissed. The defendants have filed their answers to our motions to dismiss, to which we will now reply. At that point the record should be complete and we anticipate that the case will be decided without requiring a factual hearing.

The hearing on the pleadings is scheduled for March 14, 2013. RCHCA continues to believe in it and the individual plaintiffs will prevail, and therefore the defendant parties will be enjoined from converting RCH Local Park to non-park use without complying with the required statutory provisions. Such compliance would be extremely expensive as it would require the purchase of new land, and thus would likely require any new school to be located elsewhere. Depending on the court's ruling and the actions of the defending parties, we will discuss at the April 4 what actions the Association should take.

For the reasons I have discussed, this lawsuit has been quite costly. By December 31, we had spent somewhat in excess of \$50,000 and have raised just enough funds to cover our costs through that date. You will recall that RCHCA determined that this litigation would be funded as a separate association activity, and that funding would be solicited as needed to moderate the impact of that funding. To this end, RCHCA established a litigation account to be kept strictly separate from our general operating funds.

We have done so and it is our intention to continue to fund this litigation from a separate account. Another round of funding is being requested at this time. Specifically, an additional \$20,000 is needed to sustain the litigation through the end of March (after the hearing on the pleadings). As before, in addition to maintaining separation of litigation funds from other association funds, if there is a surplus in the funds raised since December 31, they will be refunded pro rata based on the contributions since that date. Please make any checks to the Rock Creek Hills Citizens Association, noted to the Litigation fund, and mail them to John M. Robinson at 9616 Old Spring Road, Kensington, MD, 20895. The funds should be received no later than March 1, 2013.

General Financial Information

This is the report for the general operating fund which has been separately maintained as a reserve for other important matters such as the enforcement of the RCHCA covenants (particularly related to ongoing fence and construction issues), meeting and minor regulatory and tax expenses, and our community activities. As of December 18, 2012, our checking and savings account totaled \$14,089. This is not as much money as it seems when ordinary operating expenses for 2012 were \$8033.47 against ordinary income of \$8107. 47. A final report will be provided by our treasurer at the meeting, along with a request that you renew, or join, our membership. An envelope requesting the payment of the \$40 per household will be coming your way. Please contribute.

Election of Officers

We will be electing RCHCA officers for period through January 2014. The following have agreed to serve another term: President, John M. Robinson; Vice-President, Samuel Statland; Secretary, Kenneth Sanford. David Hall is stepping down as Treasurer after excellent service in computerizing our books and straightening our past records. He will provide Quicken training for his successor, who we badly need. Please step up and volunteer for this important, but modest, time commitment.

Yours,

John M. Robinson

President, RCHCA

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