

## **RCHCA Winter 2018 Meeting – March 12, 2018**

RCHCA President Jim Pekar, noting that a quorum was present, called the meeting to order. A motion to approve the minutes of the Fall 2017 meeting was made, seconded, and approved.

The Treasurer's Report was then presented by RCHCA Treasurer, Maria Marzullo. Ms. Marzullo reported these balances: Checking Account: \$3,334; Savings Account: \$6,417; Total: \$9,761. RCHCA has received approximately \$2,300 in dues payments so far this year. Last year, the Association received \$8,200 in dues. Expenses included meeting and newsletter fees totalling about \$900. Costs related to Covenants litigation have been paid from donations (\$9,000 has been paid to the attorney so far, though more is owed).

### **Pedestrian Safety and Streetscape Improvements**

The Montgomery County Department of Transportation responded to both the November 9th email from RCHCA requesting a transportation/traffic and sidewalk installation study (in accordance with votes of the membership at our October 24<sup>th</sup> meeting), and a followup March 1 email asking whether an update might be available for this meeting. Dr. Pekar read aloud excerpts from the recent email from Mr. Al Roshdieh, Director of the MCDOT:

*“With regard to the traffic study, an engineering consultant has been tasked to conduct a thorough evaluation of traffic operations and pedestrian safety in Rock Creek Hills. The consultant has already scoped out their task to conduct access restriction, intersection geometric improvements, and traffic calming, where applicable. The consultant has been directed to prioritize this task and have the recommendations and designs available by the end of June 2018.*

*...the Division of Transportation Engineering has completed field investigations of the segments of Saul Road, Kensington Parkway, Kent Street and Elrod Road as detailed in your November 9, 2017 letter. Generally, the sidewalk construction will face the typical constraints including utilities, topography, retaining walls, street trees and other landscaping within the right-of-way. Some areas may require more detailed engineering design. In addition, Kensington Parkway presents some unique challenges because constructing the sidewalk along the east side would involve coordination and permitting from the Maryland-National Capitol Park and Planning Commission and also construction of a retaining wall along a portion of the sidewalk. On the other hand, construction on the west side would impact the front yards of the private homes along that side, where we anticipate significant push-back.*

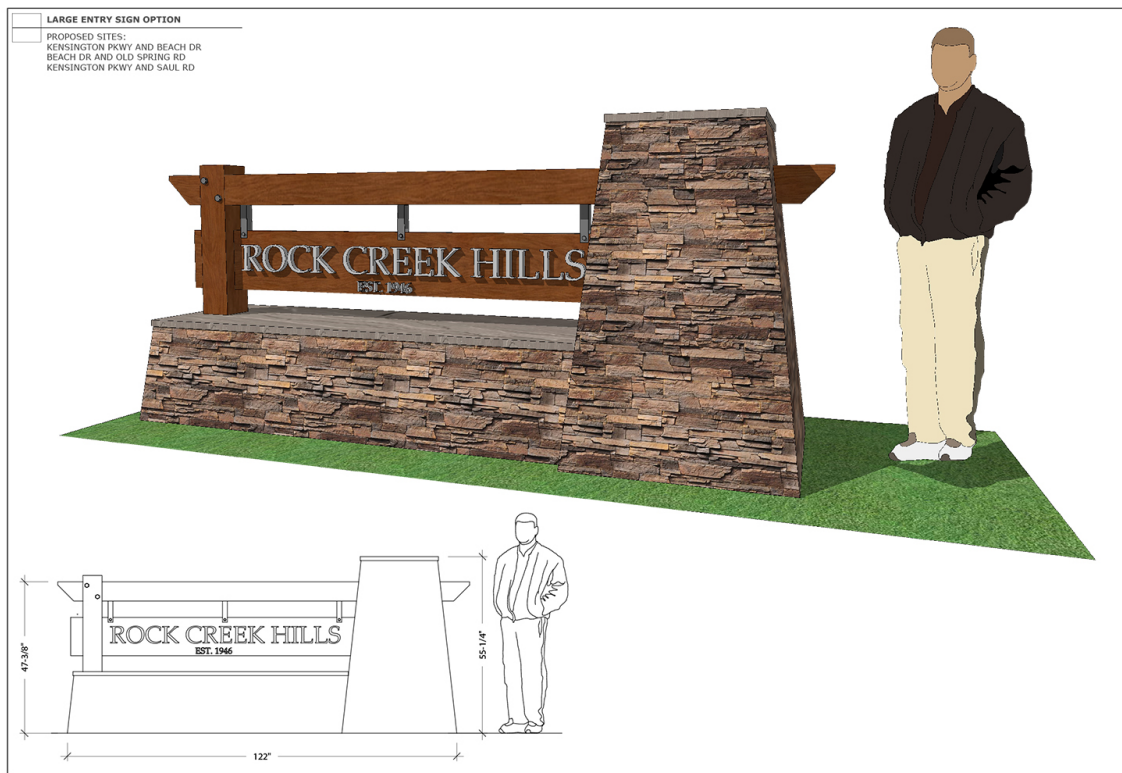
*I suggest that our Sidewalk Program Manager meet with you to discuss the options and try to determine the specific routes to best accommodate the needs of the community. I am asking Mr. Frank Kingsley to contact you to schedule a meeting at your convenience.”*

In discussion of this matter, several neighbors made the point that it would be important to accommodate sidewalks on Kensington Parkway, while also allowing parking for cars. A neighbor questioned whether a sidewalk was still needed along that portion of Kensington Parkway that is across from Kingston Road, where a concrete sidewalk was recently installed, replacing an old asphalt path that was in poor condition.

### **Neighborhood Signage**

Neighbor and graphic designer Jed Dinger presented signage options that he created for neighborhood signs in two sizes (“large” and “small”) at six potential locations at neighborhood entrances. He said he was inspired to revisit the design after RCHCA's previous attempt to create

signage eight years ago was unsuccessful. Mr. Dinger said he believed these signs would enhance and establish the neighborhood and could help to reinforce the covenants. Mr. Dinger said he would seek to obtain estimates of construction cost for the signs, and acknowledged that fundraising would be required. He pledged \$1,000 towards construction of signage.



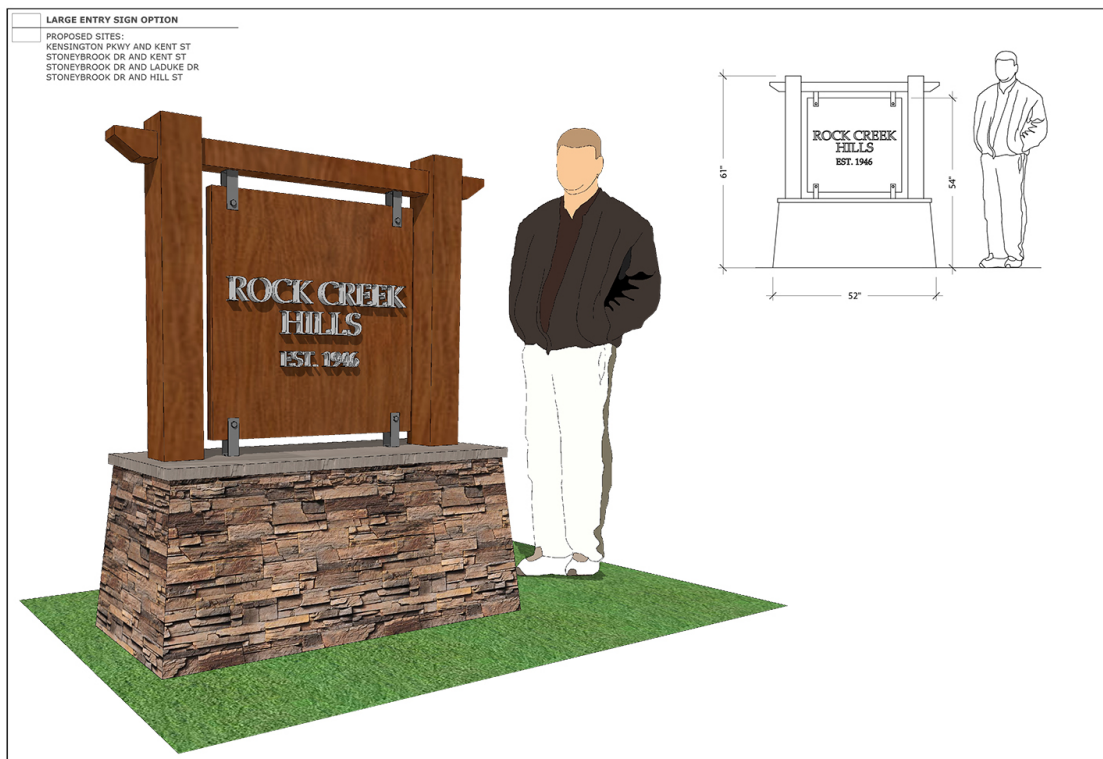
March 12, 2018

jd  
Dinger  
Design

ROCK CREEK HILLS  
CITIZEN ASSOCIATION

LARGE ENTRY SIGN OPTION

A 02



March 12, 2018

jd  
Dinger  
Design

ROCK CREEK HILLS  
CITIZEN ASSOCIATION

SMALL ENTRY SIGN OPTION

A 03

## **Covenants Update**

With the following remarks, Dr. Pekar announced that the fence litigation has been settled, and distributed a letter that is part of the settlement (a copy of the letter is attached to these minutes):

*By way of (brief) background:*

- *In the late Summer of 2016, a fence (on Kensington Parkway) was constructed without prior request for authorization;*
- *the fence was in plain sight, and complaints regarding it were received;*
- *in October 2016, members of this Association voted to support the Board in bringing litigation, if necessary;*
- *in March 2017, the neighbors who built the fence addressed a meeting of this Association;*
- *following that, the Board filed litigation.*

*In January 2018, the Board decided to pursue a settlement of the case without going to trial, in order to avoid the risk and expense of further action.*

*The Board made this decision this for several (six) reasons:*

- *We saw that we would have spent essentially all our money before the trial;*
- *We believed that even if we were to win at trial, the case was likely to continue, in appeal;*
- *Depositions in the case revealed what could be construed as past administrative deficiencies on our part;*
- *We saw a small but real chance that we could suffer a catastrophic defeat, impairing enforcement of the covenants going forward;*
- *We thought that we could achieve a settlement that supported covenant enforcement going forward;*
- *The fence, as landscaped, was substantially screened from view.*

*Last month we reached a settlement. As part of that settlement, a letter will be included in the mailing announcing our Association's next, Spring, general meeting. Copies of that letter have been distributed here this evening.*

*I want to thank you for your attention to this matter, over the years. I want to thank especially everyone who contributed your time and money to support the enforcement action. Of course, there is a diversity of opinion regarding this matter; I will continue to strive to treat everyone with courtesy and respect.*

*Your Board believes that the settlement puts us in a strong position to enforce and preserve the Rock Creek Hills covenants, which greatly benefit our quality of life in this community.*

A neighbor asked if the settlement was precedent-setting. RCHA Past President John Robinson replied that the settlement is specific to the circumstances of this particular case, and reinforces the right of the RCHA Covenants Board to enforce the covenants. Mr. Robinson also reiterated that there is an obligation of the settlement attorney or realtor to disclose to homebuyers that covenants are part of the deed for those purchasing a home in RCHA; and also that the covenants are a matter of public record and that purported ignorance of them is no excuse for their violation.

Due to the disturbing nature of the odious racially exclusionary clauses present in covenants posted on the RCH website, there was a suggestion to include on that website an appropriate preamble regarding the illegality and offensive nature of those clauses. (Note: As of this writing – March 18th – that has been accomplished.)

### **Nominating Committee Update**

Elections for new RCH officers were deferred to the Spring meeting to allow time for settlement of the covenants litigation. The RCHCA Nominating Committee, chaired by John Robinson, includes Fern Shephard, Winnie Holbrooke, and Gary Ditto. The Committee asks the community to please consider volunteering to fill the positions of departing RCH officers, including the President, Treasurer, and Secretary. RCHA Vice President Hill Carter has agreed to continue to serve in his current role.

The meeting was adjourned.

**Rock Creek Hills Citizens' Association**  
~ For residents & friends of Rock Creek Hills ~  
9723 Kingston Road, Kensington MD 20895

March 9, 2018

Dear Neighbors,

I am writing to update you on the litigation between Rock Creek Covenants, Inc. (RCHC) and Carlos and Shirley Domenech regarding the fence which they constructed on their property. I am pleased to let you know that the litigation has been resolved without a court trial, so that the fence, as constructed and landscaped, may remain, as long as the fence remains substantially screened from view from Kensington Parkway and other properties.

Upon careful evaluation, the RCHC Board determined that in the context of a settlement the fence is acceptable based on its distance from the street, the location facing the Rock Creek Park woods and stream, distance and location from adjacent properties, and substantial screening of the fence from view from Kensington Parkway.

Once the Domenechs became aware of RCHC's concerns about constructing the fence without prior approval, they submitted an application showing the landscaping surrounding the fence and offered to install additional landscaping as may be required by RCHC to substantially screen the fence from view from Kensington Parkway and other properties. Apart from disagreement as to whether the fence, as landscaped, should be allowed, there may have been misunderstandings about the timing and manner of communications from the Domenechs in the course of discussions at Association membership meetings or in its newsletters. Those discussions were directed at the timing concerns, not the willingness of the Domenechs to address the Association's and RCHC's other concerns. Nor were these discussions intended to suggest that the Domenechs lacked concern about the appearance of the community and value of homes in the community, a concern central to the covenants. The steps taken by the Domenechs to screen the fence with plantings after it was constructed are consistent with the covenant goal of encouraging an attractive appearance and enhancing the value of all homes in the Rock Creek Hills community.

Some have suggested that my November 8, 2017 letter to all Rock Creek Hills owners and residents was misleading because it included a photo of the fence as it was under construction in September 2016, before any landscaping was installed. That photo did not show the fence as screened by landscaping when that letter was sent. The intention was to convey our concern about fences which are openly and completely visible from the street. When that letter was written on November 8, the Domenechs had already installed substantial landscaping surrounding the fence to make the fence less visible from the street. I and the other RCHC/RCHCA officers and directors regret any misunderstanding and negative perception of the Domenechs which my letter and that photo may have caused.

Sincerely yours,



James J. Pekar, Ph.D.

President,

Rock Creek Hills Covenants, Inc.

Rock Creek Hills Citizens' Association