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Berkeley Park Bulletin

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President's Report

by Michael Wagoner

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I want to take this opportunity to wish everyone a Happy Holiday and Prosperous New Year. I can't believe 2009 is almost over. We have accomplished many things this year in Berkeley Park highlighted by the fight and subsequent re-opening of Station 23 and the recent city elections. This year's Chili Cook-Off was a fun time for all, and we made some head-way on items like crime, code and zoning and traffic. Thanks to everyone who has provided support, time, an open house, food, etc. We could not do it without you, however with all of these accomplishments, there is still a ton to be done which will require assistance from everyone within Berkeley Park.

Thanks to the 11 people who attended November's Meeting and participated in the BPNA officer elections. I am happy to act as the Berkeley Park President again, and welcome our new and returning Officers. Thanks to Jeffrey and Joy for their assistance coordinating the election process. One thing that I learned this year (or maybe just confirmed) is that it takes a village. Berkeley Park continues to operate with the assistance of a handful of neighbors. This year's membership efforts seemed to go well, and we were able to add a number of residents and businesses, however we didn't grow together as a neighborhood. Holmes had street events, music and movies, Verner was represented at the meetings, and Antone has a great sense friendship, however there was little interaction between streets. The Chili Cook Off was a great bridge between streets, so I propose we have a minimum of 2 neighborhood events this year. A few ideas that had been tossed out were a wine tasting or maybe an ice cream social.

In closing, you may notice a reoccurring theme above. We need more participation. With everyone stretched thin, this has become even more important. I would like to solicit 2 representatives from each street to act as a point of contact on neighborhood efforts. This Association needs to reach out to all of our streets, but it's hard for the regular handful of contributors to stay on top of things. We will only be able to focus on areas which have participation and assistance from their residents. If you are interested in participating, please forward me your information, and the Board will help coordinate the initial efforts.

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Once again, Happy Holidays and stay safe.

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NPU-D Report

by Jim Martin
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The November 24 th NPU-D meeting was pretty quiet. The only important business was when we elected our officers for 2010 as our bylaws required. Next year, I will remain the Chairman, Karyn Hudson will remain the Vice Chairman, and Karl Goodhew will remain the secretary. It was almost as exciting as the BPNA elections the week before. We dealt with two other business items. In the first, we endorsed Harry Leon's appeal to the BZA protesting the rescission of the citation issued to CSX for handling hazardous materials without a permit in the Howell rail yard. I wrote about this in last month's newsletter. In the second, we approved a liquor license for the Corner Tavern, which is moving into the new development at the corner of Huff Road and Ellsworth Avenue.

The hot topics of discussion at the meeting involved the Department of Watershed Management. One was the draught surcharge that people have been complaining about for some time. Kamilah Carter from the DWM told us that there is not now and has never actually been a draught surcharge. It was apparently proposed, but never enacted during the draught. Several people questioned this assertion and said that the surcharge was listed as an item on their water bills just like the homeland security surcharge. When I got home after the meeting, I checked my bill and could find no mention of it. It seems odd that people would have been complaining so much about a thing that never existed when there are so many extant things worthy of complaint. As far as I can tell, either that is the case or DWM has executed an effective cover up. Since DWM does not have a reputation for effectiveness, I am betting on the former.

On December the 10 th Harry Leon's appeal regarding CSX was heard by the board of zoning adjustment (BZA). There were seven of us there to support him. Three of us spoke in support of his appeal. The BZA denied the appeal based largely on the testimony of the city's attorney who parroted the contention of the three CSX attorneys in attendance that the city did not have the authority to enforce its codes against the railroads, because it was preempted by federal laws shielding interstate commerce from local regulation. There are many troubling things about this assertion both regarding what CSX is doing in the Howell yard and what they might choose to do in the future. This argument could be easily extended to protect almost any activity on that site from local regulation. After the hearing, I asked the CSX attorney if it would permit the handling of nitroglycerine, plutonium, or cyanide in the Howell Yard. His answer was "It would, but that would be regulated by federal laws...". I did not find this reassuring. I was also troubled by the assertions of CSX's attorneys that they were doing everything possible to protect public safety in the Howell Yard. If that were in fact the case, it does not seem like they would have had difficulty obtaining appropriate permits for their actions, which makes their extraordinary efforts to avoid obtaining these permits difficult to understand.

Ultimately, the problem with Harry's case was that the relevant issue was the city's standing to enforce its laws against a railroad and this could only be decided in court. In order to bring the case to court, the city would first have to assert its own authority rather than having this asserted by a third party. By announcing that the city was not willing to do this, the city attorney placed the BZA in the unusual situation of deciding a dispute outside of their

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mandate or expertise (i.e. a question of constitutional law), where their only expert advisor was also effectively the defendant in the case before them.

The good news in all this, if there is any, is that the case does not seem to have set a strong precedent. If the city were to decide to decide to take its obligations to protect the public more seriously in the future, a new citation could be issued to CSX for its actions in the Howell Rail Yard. The merits of such a citation have not actually been debated either before the BZA or in court. The issue before the BZA on December 10 th was whether or not the code compliance officer, Mike Renshaw, had acted properly in rescinding the original citation based on the advice that he received from the city attorney. Their decision was that he had. If that legal advice were to change either as the result of newfound enlightenment, pending court cases or a change in federal law, it would presumably be a proper action for Mr. Renshaw to issue a new citation.

Secretary's Report

by Michael Hagearty
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Berkeley Park Neighborhood Association November 2009 meeting minutes

- BPNA President Mike Wagoner asked Board Member Jeffrey Rogerson to direct the meeting agenda in his absence.
- A metal plate has been placed on Bellemeade to cover the pothole that has damaged several residents' automobiles. The road is still prone to flooding, however, despite Mike Wagoner's repeated e-mails to the Department of Public Works.
- BPNA Holiday party to be held Saturday, ~~December 12~~, at the Wagoners (Verner Street) (*Date has now been changed to December 19*)
- Jim Martin gave an update on CSX Transportation, which was given a zoning citation by the city for the company's handling hazardous materials in the Howell Rail Yard. Following CSX's appeal, the city rescinded the citation, but the neighbor who brought the original complaint is appealing the city's decision. Atlanta's Board of Zoning Adjustment will hear the case (V-09-169) at noon on Thursday, December 10 in the City Hall Council Chamber, second floor. For more background information, see Jim's column in the November newsletter: http://www.berkeleypark.org/newsletters/2009/11_09/npu%20report.htm
- Berkely Park Neighborhood Association bylaws require annual officer elections at its November meeting. As a result of those elections, Berkeley Park's 2010 leadership structure will be:

President Mike Wagoner

At-Large Board Member Jim Martin

Vice President Chandler McCormack

At-Large Board Member Joel Iverson

Secretary Michael Hagearty

At-Large Board Member Melody Harclerode

Treasurer Nina Kliene-McCormack

New Year's Resolutions

by Maureen Finneran Hetrick
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As the year comes to a close, it seems the time to reflect on the past and look forward to the future. As always, those who devote time to the neighborhood association hope that each new year will bring new volunteers to the organization, who have talents and skills we need desperately. Many of the people who do most of the work in the neighborhood (holding offices, organizing events, etc.) are the same few people who have done so for years. Eventually, some people get burned out and step back to take a break, and we get a few new recruits. But so much can be done to make our wonderful neighborhood a better place, and in many cases, it doesn't take much time at all.

So as you reflect on your year and make plans for 2010, please consider what talents you can share with the neighborhood. I've included a few ideas below just to get you thinking, but chances are, whatever skills you have, we can use them!

- Pick up garbage when you are walking through the neighborhood. Make a note of any items that might need attention and make appropriate calls to the city or property owners. Share with your neighbors what you have learned and recruit others to join the effort.
- Coordinate your block or street for the crime watch. Most of the time, this involves just getting your neighbors' contact information to notify each other when anyone suspicious happens.
- Do you collect lists of local events? Submit them to the newsletter each month! Or write an article for the newsletter about a subject you know well and might be of interest to your neighbors.
- Do you like to talk to local business owners? Tell them about the neighborhood association! We even have fancy brochures you can hand out.
- Are you good at sales? We always need help selling ads in our newsletter and website.
- Talk to your neighbors and convince them to join the association. Annual dues will be collected in January, and we need all of the funds we can get to accomplish the many items on our wish list.
- Can you help a senior citizen in the neighborhood with small tasks, like mowing the lawn or running an errand?
- Contact me if you are interested in doing any of these things or something else. If you can't think of something specific but want to help, I'll help you brainstorm some ways you can help out. If everyone gives just a few minutes a week, we could accomplish so much, and make Berkeley Park an even more amazing place to live!