

# Deerfield Village Community Association

## MINUTES OF SPECIAL BOARD MEETING

April 17, 2019

A special meeting of the Board of Trustees of the Deerfield Village Community Association was held at 4045 Deerfield Village Drive in Houston, Texas 77084. Purpose was to allow Board Trustees to discuss the swim at your own risk (SAYOR) concept, hear from residents and determine how to proceed. Vice President Brent Burris called the meeting to order at 7:02 PM.

Trustees in attendance were Brent Burris (Vice President), Bruce Bott (Secretary), Dave Flick, Terry Gray, John Murphy and Bob Shortle. Chris Saldana (Treasurer), and David Olivo did not attend and did not provide their proxies. Eric Toureilles (President) arrived at 7:08 PM during Residential Comments.

### I. DETERMINATION OF A QUORUM (6 required)

Brent Burris determined there was a quorum. Trustees introduced themselves to the crowd.

### II. RESIDENTIAL COMMENTS


- A resident asked about actions to date on the SAYOR concept. Brent provided a summary of the discussions and actions to date, noting that the Board approved increasing the coverage of the DVCA umbrella policy to \$5M in the March 25<sup>th</sup> Board Meeting.
- Eric presented a draft of the SAYOR proposal (See Attachment I) that included background information, recommendations, unguarded resident swim rules and a waiver. This served as a basis for further discussions.
- Eric provided a copy of the SAYOR Analysis developed by the Swim Pool Committee (See Attachment II).
- A resident asked if additional pool maintenance would be required. Some additional maintenance may be necessary, but is expected to be minimal. AB Pools to confirm.
- A resident asked if the program would disrupt pool maintenance activities. This matter will be raised with AB Pools.
- A resident suggested getting a defibrillator for the pool area.
- A resident asked if the pool area lighting would be on when dark in the morning or evening. This detail will need to be addressed.
- Approximately 20 residents attended the meeting. By a show of hands, approximately 90% of the attendees support the SAYOR concept.

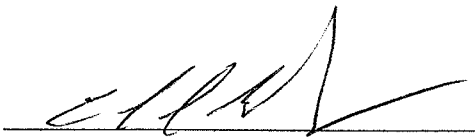
III. REVIEW INFORMATION PROPOSED BY ALL AND VOTE ON HOW TO PROCEED

After some additional discussion, Bruce motioned that the Board should consider the information and comments received at the meeting and proceed to work the details and finalize a program for Board approval to implement SAYOR as soon as possible. Dave seconded and the motion passed unanimously.

IV. ADJORNMENT

Bob motioned to adjourn the meeting. Terry seconded, and the motion passed unanimously. Eric called the meeting adjourned at 8:24 PM.

  
Submitted by: Bruce Bott  
DVCA Secretary

  
Accepted by: Eric Toureilles  
DVCA President

## SAYOR (Swim at Your Own Risk) Proposal

April 17, 2019

**Purpose:** Create a program where Members/residents can use of the pool beyond the current existing guarded schedule, mitigating risks and financial costs around such a program.

**Assumptions:** No changes to existing pool schedule and approach (dates/hours open or swim team).

**Background:**

1. Based on feedback from the community, the Board recommended to the Swim Pool Committee to create a Sub-Committee and explore the possibility of implementing the program above. Legal and insurance resources was granted, with approval from the President or Vice-President.
2. This concept is growing in many new and old communities, but generally not built with a deep-end and slide. Only found 1 other subdivision in Houston with deep end.
3. Deerfield has had Swim at Your Own risk in its baby pool.
4. Recommendation was made by Swim Pool Committee for a multi-phase plan on January 28<sup>th</sup> but wanted the Board to approve how to proceed. Board assumed responsibility and took next steps to determine how that would look like.
5. Board set-up a special meeting on March 4<sup>th</sup> to review with our insurance carrier, and our attorney. This has been done by the SPC Sub-Committee, but the Board had additional questions. Residents were offered time for questions or statements.
6. The concept is legal –Texas Administrative Code allows and DVCA attorney concurs.
7. Waivers must be signed by resident and spouses and/or legal guardian.
8. The concept is allowed by our insurance – with no additional rider or premium required.
9. The diving board and deep end must be closed and required signs posted.
10. Stringent rules must be established, with no tolerance policy.
11. Board setup a 2<sup>nd</sup> Special meeting on April 17, 2019 to listen to residents again and make a final decision.

**Recommendations:**

1. This is a pilot program and to be evaluated periodically and can be terminated or modified at any time.
2. Members enrolled in this program would be allowed to use the facilities from 6AM-9PM, <sup>-18 min</sup> understanding that most of that time is during guarded hours.
3. Members must sign a waiver, including spouses and/or legal guardian, and release the association from liability for themselves or immediate family members only. Waivers would be drafted by the attorney and approved by the Board.
4. No guests or family members not specified included in the waivers can participate or be in the pool/pool area.
5. Members would be required to enter the pool with buddy, that must also be a participant in this program. No resident alone at the pool.
6. Members would be responsible for abiding by Unguarded Swim rules.
7. Violations unguarded swim rules would result in immediate suspension, up to expulsion of the program.
8. Association would follow rules under Fair Housing Act and other laws to consider participants in this program.
9. Key Access/finger print reader would be required for entry, and system would run separate to cards and system used for other DVCA facility access.
10. SEAL would monitor unguarded swim times hourly and enforce issues in pool area on call.

11. Video surveillance operation will be checked by office manager daily, and issues could result in closing of pool area until resolved. Additional cameras should be evaluated, but none anticipated.
12. DVCA office would be responsible to communicate revoked privileges or violations to Members of the program, and not the SPC.
13. Consider a water lifesaving training program for participants in the program.

**Costs to implement:**

1. Access Control lock - \$2250.00
2. Signage - \$250.00
3. Water thermometer - \$50.00
4. Legal fees - \$400.00
5. Insurance fees - None
6. Lighting and other security enhancements (None anticipated)

**Timing:**

Program may take 2 months to complete before it can be presented to Board for implementation approval. Deliverables of equipment and waivers can take several weeks.

**Attachments:**

1. Draft of Swim Rules (From Sub-Committee)
2. Draft of Waiver (not reviewed by Attorney yet)
3. Swim at your own risk analysis (Completed last year)

## Unguarded Resident Swim Rules

### Rules and Policies

- **Access to Pool Area**
  - Pool area is to be locked at all times
  - Gate must be closed and ensured that it is locked after each use
  - Each person must enter using the personal Access Card issued them after signing a waiver
  - No tailgating unless by immediate family you are taking responsibility and liability for
  - Pool use is restricted to residents who have a signed waiver form on file. If children are included they must also have a signed waiver form on file and the resident must accompany and remain in the pool area to ensure that everyone obeys the rules.
  - No parties are allowed during Unguarded Resident Swim pool hours
  - Unauthorized users using the pool are trespassing and will be prosecuted
    - Resident will indemnify DVCA for any unauthorized person they allow in
  - Rec Center bathrooms are available via access card. Pool bathrooms will be locked.
- **Safety Rules**
  - The pool will be closed at any time it is deemed necessary by DVCA in order to safeguard the health, safety, and well-being of all persons in the pool
  - There is a 911 Emergency phone located on the front side of the Pool House
  - All posted rules in the Pool area continue to apply during Unguarded Resident Swim
  - It is the full responsibility of the parents/guardian to supervise their children at all times
  - Anyone who is under MUST be accompanied by a responsible adult who is 18 years or older and that adult must remain in the pool area the entire time to supervise the non-swimmer.
  - Children over 6 are not allowed in the baby pool. A parent or guardian MUST supervise all children in the baby pool at all times.
  - The diving board is closed and off limits
  - The deep end is closed and off limits
  - Thunder – the pool must be cleared of swimmers for a minimum of 20 minutes if thunder is heard.
    - The 20 minutes resets upon each new occurrence of thunder
  - No diving allowed off of the deck or diving board
  - No running in the pool area as the pool deck may be slippery
  - No rowdy or unruly behavior is allowed in the pool or pool area (ie. horseplay, fighting, etc.)
  - Only individual floatation devices are allowed and cannot be used as a substitute for adult supervision.
  - No large floats, rafts or animals rafts allowed
  - Only soft sponge balls allowed in pool area
  - No bicycles or skate boards in the pool area
  - No pets allowed in the pool area
  - No glass or breakable containers allowed in the pool area
  - No use of tobacco in the pool area
  - No person with open wounds is permitted in the pool
  - No alcohol is allowed in the pool area during Unguarded Resident Swim
  - Incontinent swimmers must wear a swim diaper or leak proof plastic pants (meets FHA)
  - It is recommended that you use a buddy system and not swim alone
  - Trash must be discarded in the trash cans provided or taken out when leaving
  - All items brought in must be taken out when leaving the pool area
- **Enforcement / Progressive Discipline Rules**
  - The rules will be strictly enforced and violations will be dealt with strongly
    - Removal of access to the pool for a long period of time (months)
  - If a second violation occurs – banned from Unguarded Resident Swim for a year
  - Need to allow for a hearing before the board if requested (not publicized)

December 17, 2018

Deerfield Village Community Association, Inc.

Unguarded Swim Access User Agreement and Release Waiver

- I. Defined terms under this Agreement:
  - a. Association – Deerfield Village Community Association , also referred as DVCA
  - b. Swimming pool – refers to the Deerfield Village Homeowners Association swimming pool and fenced in area located at 4045 Deerfield Village Drive Houston TX 77084. Phone number to office.
  - c. User – resident and/or household members in good standing with DVCA that have properly executed waiver/s on file and therefore authorized by DVCA to access the pool during unguarded swim.
- II. Unguarded swim access applies to user/s over the age of 18 with properly executed waiver on file in the DVCA office. Anyone under the age of 18 must be accompanied by parent/legal guardian AND have proper waiver on file in the DVCA office.
- III. User has read, agrees to, understands and signed the Unguarded Swim Access Rules and Regulations. (See Attachment)
- IV. The undersigned user does hereby execute this USER AGREEMENT AND RELEASE WAIVER "agreement" and acknowledges the inherent risks involved in the use of the Associations' swimming pool, which risks include, but not limited to bodily injury, sickness, disease or death from using the DVCA swimming pool. User also acknowledges and understands that use of the swimming pool, is potentially dangerous and they the type of injury or damage described above can occur when using the DVCA swimming pool. USER UNDERSTANDS THERE WILL BE NO LIFEGUARD ON DUTY DURING THE TIMES OF UNGUARDED SWIM ALLOWED ACCESS TO SWIMMING POOL UNDER THIS AGREEMENT AS SET FORTH AND AGREES TO ASSUME ALL RISKS ASSOCIATED THEREWITH.
- V. The allowed use of DVCA swimming pool by Users under this Agreement will be the dates and times set forth in exhibit A attached hereto and incorporated herein for all purposes, unless such dates and times are changed by the DVCA Association Board of Directors or Pool Committee at its sole discretion. Changes can be made without notice.
- VI. The allowed use of this DVCA swimming pool by used will be permitted upon reading and acknowledging, by signature, the Rules and Regulations attached hereto and incorporated herein for all purposes. The DVCA Board and Pool Committee has the authority to update or amend the rules and regulations at its sole discretion.
- VII. User must securely close the gate upon entering and exiting the swimming pool area. Any damages to the Association or property resulting from a violation of this will be the responsibility of the user and the user does hereby agree to pay, indemnify and hold the DVCA Association harmless there from.
- VIII. User agrees to clean up any trash or other items left in the swimming pool and vicinity after each use. Any damages to the swimming pool or Association property will be the responsibility of the User. Should the Association have to pay for any additional clean up or damages caused User under this Agreement, the User hereby agrees to pay to the Association all costs incurred for the repair, replacement, and cleanup. Such payment shall

be due to the Association within ten (10) calendar days of being invoiced by the Association. Invoices are presumed received when deposited with the United States Postal Service and proof of delivery is not required.

- IX. In consideration of being granted access to use of the swimming pool under this Agreement, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged:

USER AGREES TO INDEMNIFY AND HOLD DVCA ASSOCIATION, BOARD AND MEMEBERS HARMLESS FROM LIABILITY OR CLAIMS, DEMANDS, DAMAGES, AND COSTS FOR OR ARISING OUT OF: (1) ANY DAMAGE, INJURY, DISEASE, SICKNESS, OR DEATH TO USER ENTERING THE FAMILY UNDER AUTHORITY OF USER RELATED TO THE OPERATION OF THE SWIMMING POOL; OR (2) ANY DAMAGE OR LOSS TO PERSONAL PROPERTY CAUSED BY OR RELATED TO THE OPERATION OF THE SWIMMING POOL.

USER UNDERSTANDS, ACKNOWLEDGES AND STIPULATES THAT THIS RELEASE, WAIVER OF LIABILITY, ASSUMPTION OF RISK AND INDEMNITY AGREED TO HEREIN BY ACCESS CARD HOLDER APPLIES TO AND INCLUDES ANY SUCH CLAIMS, DEMANDS, AND COSTS ARISING OUT OF NEGLIGENCE ON THE PART OF ASSOCIATION AND PARTIES.

- X. User stipulates and agrees that the invalidation of any terms or provisions of this Agreement by judgement or other court order shall not affect any of the other terms or provisions and such other terms and provisions shall remain in full force and effect.
- XI. User understands and agrees the Association may terminate this Agreement at any time.
- XII. User may terminate this Agreement at any time by returning the Access Card to DVCA office.
- XIII. User agrees that he/she will be responsible for any and all legal fees incurred by the Association for any proceeding or action brought under or with relation to this Agreement.
- XIV. This Agreement is non-transferrable and may not be assigned.
- XV. User understands and agrees to be liable to the Association for all damages caused to Association property by user.

The terms of this Agreement agreed to and accepted by:

\_\_\_\_\_  
Unguarded Swim User Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Email Address

To allow a household person, under the age of 18 access to Unguarded Swim when accompanied by parent or legal guardian who also has completed waiver on file, BOTH legal guardians must sign below.

I hereby authorize access to \_\_\_\_\_ and the terms of this agreement agreed to and accepted by:

\_\_\_\_\_  
Parent/Legal Guardian

\_\_\_\_\_  
Date

\_\_\_\_\_  
Parent/Legal Guardian

\_\_\_\_\_  
Date

NOTARY???



## Swim At Your Own Risk Analysis

### The Background

- For over 10 years there have been DV residents who have wanted to use the pool outside of the contracted pool hours (before the pool opened at 10 and during April/May/Sep/Oct/Nov?)
  - Until a few years ago, there didn't seem to be a way to do that due to safety, risk and logistics
  - In the last few years, changes have occurred in many areas that impact a Swim At Your Own Risk (SAYOR) option
    - Swim At Your Own Risk (SAYOR) has become common in many HOA's in Houston and Texas
      - Showing that the legal and insurance issues have been mitigated
      - Rules and waiver forms used by other organization are easily available
    - The Access Control System installed in 2017 provides a gate control and access solution that documents who has entered the pool
    - The Video Surveillance System installed in 2016 allows recording of incidents and violations that may occur during SAYOR periods
      - Providing solid documentation to be used to deal with a violation
    - SEAL being 24x7 allows real-time support and rapid response if an incident or violation occurs and also documents incidents they are involved in
  - Resulting in SAYOR now being a reasonable option for DVCA to consider
- The demographics of DV have changed, proved by the survey done in 2017
  - A majority of our residents are now older and able to participate in a broader range of activities
    - their schedules are more open as many no longer work or have children at home
    - they are looking for ways to have community and provide service (ie.)
      - Friday Coffee
      - Recreation Committee socials
      - Exercise groups
      - Men's group for social and service projects
    - Having the pool open more is a way to both socialize and exercise
- The new older demographic group desires DVCA to provide services that work for them now
  - They would like to do this in a way where everyone wins and we all work together
  - They want DVCA to think outside the box to create a better approach for all of DV
    - To expand the pie
    - Not just split up the same pie differently
  - Recently there was a push for Pickle ball that has been agreed to
  - In terms of the pool, they want SAYOR to be established so the pool can be available more

### The Request

- To open up the pool for resident use outside of the current contracted pool hours
  - Not asking to change the existing pool hours when lifeguards are present
  - Asking to open the pool up for additional times (as approved by the board)
    - On weekdays in April/May prior to the daily pool schedule starting in late May or early June
    - Before normal pool opening during the summer and weekends (ie 7am-10am)
    - Before the normal weekday pool opening in September (ie. 7am-5pm)
    - On days the pool is normally closed and it is safe to swim (Apr/May/Sep/Oct/Nov)
      - Safe to swim may include acceptable lighting and water temperature
- For SAYOR to be allowed for the members/owners of DVCA
  - Similar to what the Board has allowed to exist with the DVCA supported organizations for years

September 11, 2018

# Swim At Your Own Risk Analysis

## Issues and Considerations:

### Legal and Insurance:

- the DV Attorney has verified that SAYOR is now common for an HOA to offer
- the DV Attorney recommend that rules and a waiver form be developed for him to review and comment on
- the DV Insurance carrier has no issue with and allows for SAYOR environment
  - It requires an addition rider and associated premium
  - The rider is required to protect DVCA due to supported groups like Swim Team and BSA Troop 120
  - DVCA Board has already approved the Rider at the July Board meeting
- Texas Administrative Code Subchapter L allows for Class C pools to both have life guards on duty or not to have lifeguards on duty
  - If no life guards on duty there are additional requirements to be taken care of
    1. Required signage
    2. Diving board to be locked or chained to prevent use of it
      - Would also add signage on Diving Board stating "Diving Board Closed"

So there are no governmental law, legal or insurance showstoppers for implementing SAYOR

### Items to be worked on / developed by the subcommittee:

- Rules, Policies and Guidelines and Legal Waiver Form need to be developed
  - We have samples to look at and should try to get others
  - Need to develop a list of items to be included in each document (many thoughts below)
- Physical changes at the pool will be required
  - Access Control lockset needs to be installed
  - Required signs need to be ordered and installed
  - Access to the diving board needs to be blocked (locked or chained)
  - VSS system should be evaluated to determine if additional cameras should be added
  - Thermometer and Water temperature Display
- Other items?

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## Swim At Your Own Risk Analysis

### Considerations for the Rules, Policies and Guidelines and Waiver Form

- Safety and health Issues – lighting, water temperature, vandalism
  - Access Control system in place – pool gate can be added
  - 911 Phone in place
  - SEAL Security in place 24x7
  - Video Surveillance system covers pool with multiple cameras – add more?
  - Restrooms in place – with Access Control locks in the Rec Center hallway
  - Lighting concerns
    - Swim Anytime – do we put pool lights on a timer?
    - Dawn to dusk only
  - Water temperature
    - 77 or above - below 77 starts to affect breathing (see handout)
    - Should we add a thermometer and water temp display (under \$50 on Amazon)
      - Can we tie temperature to access control system?
    - Could start tracking this year to get an understanding of water temp trends
  - Water quality
    - Current AB Pools contract manages during off season – do we need to enhance this?
    - How to handle a bio-hazard event in the water
      - close and shock pool for ?? hours
      - what will the process be / who will do this
  - Restrooms are provided in the Rec Center hallway and have access control locks on them
  - Please be considerate to minimize dripping water and making a mess
- Hours / Schedule
  - Lighting concerns – see above
  - Water temperature – see above
  - Month / Date Schedule - acceptable / unacceptable Months outside of normal pool season?
    - April, May, September, October
    - March, November
- Who can participate?
  - Residents in good standing and their immediate family only
  - What about guests?
  - Only those who have signed a Waiver (notarized to make it more legal?)
    - All adults who want to participate
    - Children must have waiver signed by both legal parents
    - Guests must sign a waiver if guests are allowed
  - Resident who signed waiver will take responsibility and liability for all family members (and guests) that they allowed to enter the pool area
  - No one who cannot swim at least 25 yards continuously (one length of the pool) or meet the Red Cross Swim Level 4 can be in the pool area unless there is a responsible adult 18 years or older supervising
  - Opting out of SAYOR is the default for the Access Control Card
- Rules and Policies
  - Access to Pool Area
    - Pool area is to be locked at all times
    - Gate must be closed and ensured that it is locked after each use
    - Each person must enter using their Access Card that was issued due to signing a waiver
    - No tailgating unless by immediate family you are taking responsibility and liability for
    - Pool use is restricted to residents who have a signed waiver form on file. If children or guests are included they must also have a signed waiver form on file and the resident must accompany and remain in the pool area to ensure that everyone obeys the rules.

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## Swim At Your Own Risk Analysis

- No more than ?? (2/3/4) guests per household
- Unauthorized users using the pool are trespassing and will be prosecuted
- Resident indemnifies DVCA for any unauthorized person they allowed in
- Sign in sheets? For easier tracking. If not fill out – disciplined?
- Safety Rules
  - It is the full responsibility of the parents/guardian to supervise their children at all times  
~~Any adult 18 years or older must be in the pool area at all times if the pool is being used~~
  - Anyone who cannot swim at least 25 yards continuously (one length of the pool) or meet the Red Cross Swim Level 4 MUST be accompanied by a responsible adult who is 18 years or older. That Adult must remain in the pool area the entire time to supervise the non-swimmer.
  - The Diving Board is closed and off limits
  - Thunder – pool must be cleared of swimmers for a minimum of 20 minutes if thunder is heard.
    - The 20 minutes resets upon each new occurrence of thunder
  - No diving allowed (required)
    - Off of deck or diving board
  - No running in the pool area as the pool deck may be slippery
  - No rowdy or unruly behavior is allowed in the pool or pool area (ie. horseplay, fighting, etc.)
  - Only individual floatation devices are allowed and cannot be used as a substitute for adult supervision.
  - No large floats, rafts or animals allowed
  - Only soft sponge balls allowed in pool area
  - No bicycles or skate boards in the pool area
  - No pets allowed in the pool area
  - No glass or breakable containers allowed in the pool area
  - No smoking in the pool area
  - No person with open wounds is permitted in the pool
  - Should the deep end be open or closed?
    - If open – only for skilled swimmers (put in Waiver)
  - Should alcohol be allowed in the pool area
    - best practice is to restrict all usage
  - Incontinent swimmers must wear a swim diaper or leak proof plastic pants (meets FHA)
  - There is a 911 Emergency phone located on the front side of the Pool House
  - It is recommended that you use a buddy system and not swim alone
- No parties are allowed during SAYOR pool hours
- All posted rules in the Pool area continue to apply during SAYOR hours
- It is the residents responsibility to discard all of their trash and remove all their items before leaving the pool area
  - Dispose trash in the trashcans provided or take it out with you
- Violations and Discipline policy
  - Resident will have signed a strong agreement to follow the rules
    - Need to be very strict if a violation occurs
    - They will have violated their agreement and our trust
  - Removal of access to the pool for SAYOR for a period of time
    - should be very strong – months to a year
  - Should also be progressive
    - If second violation – should be banned
  - Need to allow for a hearing before the board if requested (not publicized)

September 11, 2018