

A photograph of several white swans swimming in dark water. The swans are scattered across the frame, with some in the foreground and others in the background. The water is dark and reflects the light.

WELCOME TO
SWANN KEYS

Community Center Usage Update

Tuesday, July 13, 2021

Presented by: Jeff Markiewicz, President SKCA 2021/2022

Introduction

- Community Center was built several decades ago for Social Functions, Meetings and Events.
- The Community got together and funded the facility for the use by the SKCA.
- Dances, Meetings, and other social events were held for many years.
- In 2016, Pickleball Play in the Community Center was approved by the Board of directors.
- Up to 2016 there were no Sports Activities in the Center.
- The center was not built with a sports flooring or protections.



Opening Weekend Party – 123 in attendance



July 4th Weekend Party – Just under 200 in attendance



SWANN KEYS CIVIC ASSOCIATION, INC.
BOARD OF DIRECTORS' MEETING
SUNDAY – DECEMBER 11, 2016 [10:00 AM]

Officers: President - Ronnie Young, Vice President - George Kirkley,
Secretary - Carol Harper, Treasurer - Sharon Fantini, and
Corresponding Secretary - Kathy Berkheimer

Executive Board: President - Ronnie Young, Secretary - Carol Harper,
Treasurer - Sharon Fantini and two (2) elected Board Members:
Bill Hutchison and Ron Wroblewski

Meeting called to order by President Ronnie Young at 10:00 AM.

Ron Wroblewski: Sure, okay. Bob Bauer did a little survey on Swann Keys Nextdoor and there are at least ten (10) people interested in playing "pickle ball". We were looking at something where we might be able to do it in this Community Center; these are balls that are used; this is the paddle - I don't think that it would break any windows or anything - it is a whiffle ball [if anybody played with them when they were kids] - it would be a portable court that we can setup in here to play - like I said, we have at least ten (10) people who are interested in playing during the winter. I had the opportunity to go down to Northside Park and they have six (6) courts down there with four (4) people on a court - that's twenty-four (24) people who are playing and there are at least twenty (20) people up in the stands who are waiting to play. So, I think there is an interest in here and we would just like to ask your permission to setup a temporary portable court inside here to play pickle ball during the cold months?

President Ronnie Young: Are you opening this up to anybody?

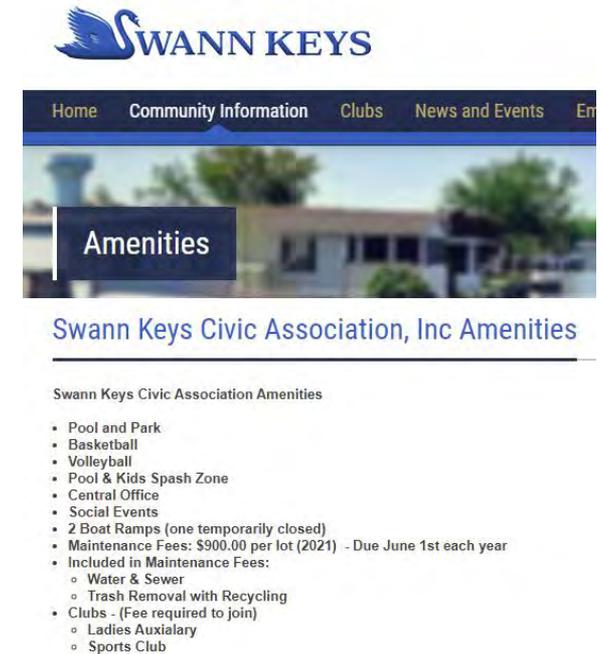
Ron Wroblewski: Right now, we just want to start with in here because I don't know if there are questions about liability - about bringing people in. We just want to see how it goes to start and then we can talk about what we want to do eventually, if it takes off. And, there is also a question about equipment to buy? So, probably for a few \$100.00 dollars we would be able to buy what we would need to setup for one (1) portable pickle ball court - and if it really takes off, I would like to Board to maybe re-imburse us; I think we are willing to put up the money initially for it - and then maybe the Recreation Committee could re-imburse us for the equipment if we have enough interest from the Community that we can play in here - and then during the summer we can setup outside and mark off the basketball court for a regular pickle ball court.

Note per Motion:

1. Play was to occur outside until "Cold Months"
2. There was a concern about liability but no one addressed it. Confirmed by Ronnie Young on June 28, 2021.
3. No one ever contacted our insurance company or attorney about the risk of playing sports in the community center.



- Between 2016 and 2020, Pickleball somehow expanded to using the Community Center year round.
- The Building was heated and cooled 24x7 for anyone to use the facility whenever they wanted.
- There was no documentation of the Board ever approving that.
- Utility cost skyrocketed and at the same time, folks complained about paying higher Maintenance Fees.
- Some said – Pickleball was an amenity they paid for. Pickleball was never listed as a community amenity.
- Some tried to compare having the Community Center to the Pool, Card Playing and other events.
- In Fiscal Year 2020 – It cost **\$4,025.00** to heat and cool the community center when open 24/7.
- In Fiscal Year 2021 – During COVID– It cost **\$1,147.81**
- With the new accounting system, the Board Realized the high cost of Heating and Cooling the large center.



In 2020/2021 The Board had to find ways to maintain costs. Or Maintenance Fees would skyrocket. They did that by limiting the days and hours the Community Center would be open.

Working with the State of Delaware, DSP Department, Jeff Markiewicz and Margaret Hutchins got approval for Pickleball to resume following COVID Guidelines.

The Board Supported the Pickleball Players.

As far back as August 29, 2020 during COVID Crisis, Jeff Markiewicz had a special meeting with Pickleball players trying to get them back on the court. Despite this work, Mr. Markiewicz and the BOD were falsely accused of “not liking the Pickleball players” and “Retaliating” against certain people. This is False. **Documentation proves that!**



**Swann Keys Civic Association
Board of Directors
Approval to Resume Pickleball Play
April 24, 2021**

On Wednesday, April 21, 2021, Mrs. Yajaira Bermudez, Environmental Health Specialist, Delaware Department of Health and Social Services, Division of Public Health approved SKCA to resume Pickleball Play in our Community Center with stated guidelines regarding the COVID Pandemic. Pending this approval the Board of Directors, on April 18th, 2021 unanimously agree to allow Pickleball players to resume play with the following conditions:

1. Pickleball will be played only on Wednesdays – 9:00am to 1:30pm and Saturdays – 9:00am to 1:30pm.
2. The Community Center is to be secured and remain locked during times outside of the aforementioned.
3. Players are responsible for turning lighting on and off and securing Community Center at the end of play.
4. Limited to Swann Keys residents and the resident's household guests.
5. Limit amount of Pickleball players to twelve (12) at a time in the Community Center.
6. Required to Sign-in.
7. Masks must be worn by players and spectators (those waiting to play).
8. Sanitize/wash hands and wipe down paddles before playing.
9. No food or beverages, other than water, allowed on the premises.
10. Disinfect/spray balls after game ends.
11. Each player can sit in chairs placed at least six (6) feet apart.
12. A designated “Leader” will be responsible for COVID Monitoring during each session.
13. Due to the high costs of heating and cooling of the Community Center, play is not permitted outside of the designated days and times stated at this time.
14. At no time, will the doors of the Community Center or Club House be open to outside air when heating and cooling is active.
15. The Community Center is configured for Board of Directors Meetings. 24 hours prior to any Board or other Community Meeting, the Pickleball Players are responsible for reconfiguring the room to the Board Meeting configuration.
16. All other State and Federal Guidelines regarding COVID will be followed by the Leader and participants.
17. In the event that there are violations to the Board Approval, Pickleball will be suspended until the Board of Directors can review the violation and make a determination if play can resume.

The Board of Directors is excited to see Pickleball Play resume in the Community Center. COVID Restrictions and Resident Safety is our primary concern. Being mindful of the high cost to heat and air condition our Community Center forces the Board to impose time and date restrictions at this time.

Jeff Markiewicz,
President, SKCA 2020/2021



Considering the high utility costs and tight budget, the Board approved a motion to allow play 3 days a week. Mon/Wed/Sat with restricted hours.

Again, the Board Supported the Pickleball Players, Dance and Yoga user of the facility.

Some even fought this:

samuel veit <samijo12@live.com> on June 18th, 2020 wrote:

..... I Will start a door to door petition to stop this nonsense of a few certain people trying to divide this community and charge for what we already paid for.

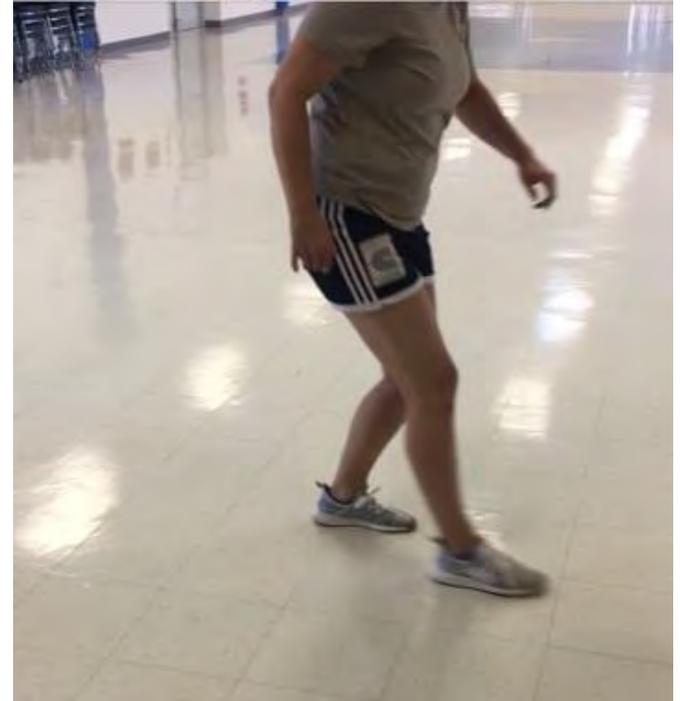
MOTION – Electronic Vote - 06/15/2021 – Post COVID Opening of the Community Center - In an attempt to return the Community back to a Pre-COVID status, while continuing to be observant of the high energy cost of heating and cooling the Community Center the Center will re-open with the following provisions:

1. Dance Lessons, Yoga and Pickle Ball can resume in the Community Center on the Days and Times approved by the Board of Directors.
2. No new Groups will be allowed to start scheduled events until a complete Community Wide Survey is conducted and the Board has developed and approved Community Center Policies and Guidelines.
3. Each Group must have a SKCA Club or Board Sponsor. These organizations are responsible for any damages or repairs that are outside of normal wear and tear.
4. Sponsor Groups are responsible for adherence to the guidelines and this motion.
5. **Hours of Operations of the Community Center for scheduled and Board approved activities are - Mondays, Wednesday and Saturdays between 9:00am and 5:00pm. (Casual/Unscheduled use is not permitted)**
6. Temperature will be set at 71 degrees (American College of Sports Medicine recommends (68 to 72 degrees Fahrenheit) – No adjustment to thermostats are allowed. Doors are not allowed to be open at any time.
7. Guest of a residents are permitted as long as each resident is in attendance during the session with the guest.
8. **For constancy and fairness, each session attendee must make a \$3.00 contribution to their sponsor organization. Ie: Ladies Auxiliary, Sports Club. The Sponsor Organization will contribute those funds to the SKCA to help with paying energy costs.**
9. All user of the facility must sign a 1 time Waiver Form – Regardless of Resident or Non-Resident
10. This motion can be receded at any time and replaced with a new motion.
11. Memorial Service for Residents can be held at no charge. Schedule of these will be approve by the House Chair and President of SKCA.

Passed by Board of Directors vote – 9 Yes – 4 No - Vote final on 6/17/2021



- In June, our Community Center Floor was resurfaced.
- Our Cleaning Company brought an issue to our attention.
- The new floor was beautiful but it was now different.
- The surface had no slide when dry but very slippery when wet.
- Several Inspected the floor and found that to be very true. Bill Smith, Our Insurance and Risk Chairman found Playing any type of sports could be dangerous.
- The Board needed to address this risk.
- We immediately suspended all Sports play in the Community Center.
- We needed to do a full Risk Assessment.



Above, Bill Smith's Daughter, Karen demonstrated how just a few drops of water made sports play very dangerous.

- We realized that Sports Play in the Community Center was never addressed by our Attorney or Insurance Company in the past
- Ronnie Young, SKCA President, 2016 confirmed that .
- We had to get the advice from our experts:
 - Our Attorney, David Hutt was contacted
 - Our Insurance Agent, Dean Rubin was contacted.
- We explained the situation to our experts and asked for written opinions.
- The opinions follow.

December 11, 2016 – Board Meeting

Ron Wroblewski: I don't know if there are questions about liability.

At this point it was not about energy costs, hours of operation, people not wanting sports play in the Community Center....

It was about the risk to the Swann Keys Civic Association – ALL 606 Members.



Community Center > Inbox x



Hutt, David C.

to me ▾

Tue, Jun 22, 1:40 PM



Jeff,

As a follow-up to our teleconference this morning, I understand that previously there were some athletic/sporting events held in the Community Center at Swann Keys. Recently, the SKCA had the floor refinished and a Board member observed that the floor is not a surface for playing athletics because it is a little "sticky" when dry and also slippery when wet. Due to this, the Association stopped athletic events within the Community Center. During our conversation I had a couple of observations which I wanted to relay again. First, I would consult with the Association's insurance carrier about use of the facility for athletic type events (this is irrespective of the refinishing of the floor). It may be that the Association is not (was not) insured for those types of activities to occur in the building. I would consult with your insurance provider and confirm the uses of the building and whether any change(s) might be needed to the policy. Second, it is always a greater concern when one knows of a dangerous condition and either does not warn others or allows an activity to continue (or both). In this case, the Board has first-hand knowledge that the floor is no longer conducive to athletic-type events. My recommendation is that athletic events not occur in the building. Please note, it may be that athletic-type events should never have been occurring within the building. I still recommend confirming the activities that SKCA has insurance for at the Community Center. Let me know if this prompts any further questions.

Thanks,

David



David C. Hutt | Partner

107 W. Market Street, P.O. Box 690, Georgetown, DE 19947

19339 Coastal Highway, Suite 300, Rehoboth Beach, DE 19971

Phone: 302.856.0018 | Fax: 302.856.7217

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Key Statements:

- **“Consult with your insurance provider”.**
- **“The Board has first-hand knowledge”** (of the risk)
- **“Athletic events not occur in building “**
- **“It may be that athletic-type events should never have been occurring within the building”**

David Hutt



Swann Keys Civic Association

Attn: Jeff Markiewicz, Pres.

37689 Swann Drive

Selbyville, DE 19975

RE: Club House Activities

Dear Mr. Markiewicz,

Thank you for contacting me to discuss the permitted utilization of the Community Center/Club House at Swann Keys. I appreciate the opportunity to help your community better understand the underwriting exposures and risks that are typical to Homeowner's Associations. In addition, as your trusted advisor my goal is to provide strategies to help you minimize or eliminate those risks whenever possible.

In regards to your questions regarding the Pickle Ball activity in your Community Center, I felt it would be best to provide a written follow up to our conversation. Specifically, to emphasize the expectations of Cincinnati Insurance for loss prevention measures. Second, to help understand the current industry appetite for HOA's, coastal properties and the impact of liability/medical claims to loss ratios. And finally, to reiterate my personal recommendation as your Broker.

I did review the published Loss Control Guidelines with the insuring company-Cincinnati Insurance. For outside organizations or non-residents that want to rent or use the facility for sporting events, exercise classes (yoga, jazzercise, etc.) and DJ events they issue Mandatory Recommendations that require a General Liability policy listing the association as an "Additional Named Insured". The subject entity must also provide documentation of a signed Waiver of Liability and Hold Harmless Agreement in favor of Swann Keys Civic Association for all members, participants and outside vendors. As you might imagine, this can be a record keeping nightmare for a volunteer board or committee member.

For Swann Keys Civic Association, the Sports Club or Ladies Auxiliary, that fall under the control of the Swann Keys Civic Association, your primary Liability Policy is in effect. If the activity involves outside vendor or subcontractors such as caterers, DJ's, or other contracted service the aforementioned Mandatory Recommendation apply. However, Sports Play such as Pickleball, Badminton, and Corn Hole introduce a risk that is above what is typical for a Community Center without the appropriate Sports Flooring, Wall Protections and Safety Components. The recent enhancements to the floor surface yet still introduce another slip and fall risk that is of concern and falls outside of customary risk tolerances.

In recent years, the overall market appetite for HOAs has diminished significantly. Property claims from catastrophic storms and a sharp rise in Liability claims has made it difficult to be profitable in this class of business. In addition, Coastal Guidelines and the hardening of the Re-Insurance markets have put the Mid-Atlantic in a difficult position. It does not take a huge loss to create a 200%-300% loss ratio that could lead to a significantly higher premium or non-renewal.

My concerns with Sporting activities are that we don't have the control measures, appropriate flooring and safety measures in place to adequately manage this type of activity. In addition, I feel there are limitations and hazards of utilizing a Community Center, interior room not designed to accommodate this type of physical activity. That is not to say that the room couldn't be reengineered and remodeled for Pickle Ball and other Sporting activities. But rather, was the room designed and intended for this purpose. As I recall from my last visit, the Community Center and Club House appeared to be designed for Social Events, Meetings and Community Dances / Parties. It is clearly not a gymnasium or sports court.

Considering these issues, I would respectfully recommend the Board deny the request to play any Sporting Activities in the Community Center or your Club House.

Sincerely,



Dean R. Rubino, CIC

Senior Account Executive

The Insurance Market, Inc.



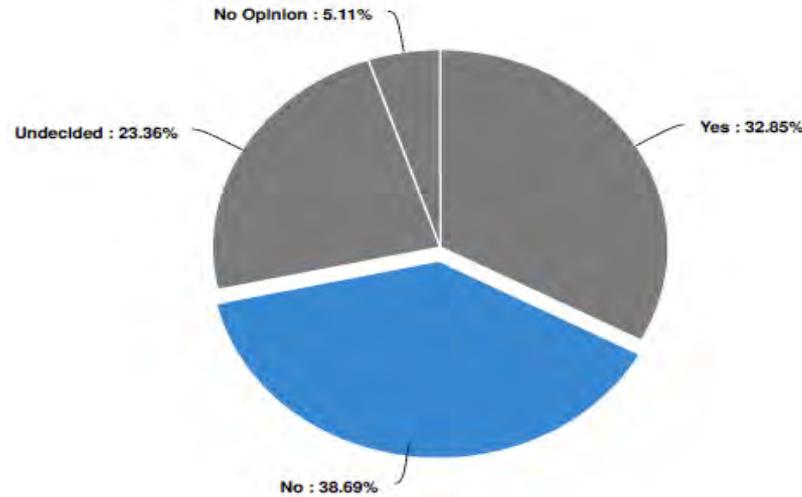
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Should physical sports (such as volleyball, pickleball, corn hole or badminton) be permitted to be played indoors in the community center? Things to consider: outside temperature (too hot/cold to play outside), community center heating/cooling costs, potential damage to walls/ceiling/fixtures.

This survey is secondary fact. It is not a factor in this decision making process.



Answer	Count	Percent	20%	40%	60%	80%	100%
Yes	45	32.85%					
No	53	38.69%					
Undecided	32	23.36%					
No Opinion	7	5.11%					
Total	137	100%					

Our Outdoor Court



The court is in need of some repairs but those can be made.

Northside Park



Northside Park offers sports courts with convenient hours with a minimal fee.

Many other Facilities Offer Sports Courts In the Area

And / Or Refocus Community and Board attention to a New Park that the community desperately needs

Summary

- We believe the Community agrees that exercise, socialization and interaction is good for the community.
- Playing sports on Concrete surfaces is a health risk to our residents. Bad on joints
- We want to maximize utilization of all of our facilities.
- Why aren't we focused on our Kids. Movie Nights, Drop-in Socials, Dances
- Our Community Center is not designed or equipped for Sports Activities.
- It is not a Gymnasium and does not have a Sports Court floor.
- The Board of Directors must make decision based on Data not Emotions.
- We are sure some will want to attack the BOD and it's leaders.
- Some will try to manipulate this information and compare it to card playing or social events, and maybe even Yoga – That is intellectual dishonesty.
- Jeff Markiewicz, President of the Board, SKCA has the responsibility to present the facts to the Board. He does not have a Vote on this matter.
- The Board must make a Data Driven decision. Not based on how many people complain or will implicate them.
- The Board will take a vote on the Motion (next page) on Sunday, July 18th.
- We need the community to have all the data available.

Motion to enact a Resolution – Raised June 23, 2021 – Section 1

Resolution Title: Swann Keys Civic Association, Inc, Community Center and Club House Insurance Requirements and Facilities Use Resolution.

Per the recommendation of David C Hutt, Attorney, Morris James, LLP dated June 22,2021 in an email to the President of Swann Keys Civic Association, Inc (hereto and after referred to as SKCA), no athletic activities or sports are to be played in our Club House or Community Center at any time due to the nature of those facilities and the risk associated with such.

Furthermore, and supporting the position of the SKCA Attorney, per the recommendations of Dean R. Rubino, CIC, Senior Account Executive, The Insurance Market, Inc and agent for Cincinnati Insurance, the Liability Insurance Company for SKCA, in a letter to the President of the Association, dated, July 23,2021, No sports of any type including but not limited to Pickleball, Badminton, and Corn Hole are not be played in the Community Center or Club House. This opinion is based on Cincinnati Insurances, Loss Control Guidelines. This does not include social activities, meetings, yoga, exercise classes (were running, jumping or fast stops is prohibited), social dance or parties. Running, jumping, rapid starts and stops of participants is strictly prohibited during any and all activities.

Furthermore, any outside group (non Swann Keys Owner or Resident) or Organization requesting to use or rent the Club House or Community Center must provide a General Liability Policy listing the association as an "Additional Named Insured". The subject entity must also provide documentation of a signed Waiver of Liability and Hold Harmless Agreement in favor of SKCA for all members, participants and outside vendors. And that Organization agrees to follow the Resolution regarding activities and use.

Furthermore, any vendors, contractors, or companies providing services associated with the use of the Community Center and/or Club House must provide the SKCA with a General Liability policy listing the association as an "Additional Named Insured".

Motion to enact a Resolution – Raised June 23, 2021 – Section 2

Furthermore, the Swann Keys Ladies Auxiliary, Inc and Swann Keys Sports Club, Inc are to provide the SKCA with a General Liability policy listing SKCA as an "Additional Named Insured". All Outside Groups, not renting the facility, must be sponsored by the SKCA, Ladies Auxiliary or the Sports Club. Organized parties or use of the facilities are considered Rental Use and are subject to a SKCA Rental Agreement unless they have a Sponsor Organization and are approved by the SKCA Board of Directors.

Furthermore, Memorial Services for SKCA Members in the Club House and Community Center are permitted without payment or Rental Agreement for deceased members and must be scheduled in advance with the SKCA House Chairperson.

Furthermore, the Club House is open to SKCA Members, Guests, Clubs and Residents for casual use such as card playing, pool, non-sports games, small group meetings, casual social gatherings. Any organized scheduled event not sponsored by the SKCA Board, Ladies Auxiliary or Sports Club, requires the approval of the SKCA, Board of Directors. The normal hours of Club House Operation are 9:00 am until 10:00pm. The Club House is environment controlled, the doors of the facility are not to be propped open at any time while heating and air conditioning is active. Controls for the heating and air conditioning are to be locked at all times and only accessible to the SKCA House Chair, Maintenance Person and Security Chair. Children under the age of 12 must be accompanied by an adult.

Furthermore, per the Articles of Incorporation of the Swann Keys Sports Club and Ladies Auxiliary, all scheduled events must be approved by the SKCA Board of Directors.

The Swann Keys Civic Association, Board of Directors, hereby adopts this Resolution without bias, discrimination and in the spirit of the SKCA Articles of Incorporation. June 23, 2021



Thank You

**Community – You Voted for a excellent Board of Directors,
the Board elected a President and Officers.**

We ALL have to respect their hard work and decisions.