



Bent Tree Property Owners' Association, Inc.

P.O. Box 2631

Monument, Colorado 80132-2631

www.btpoa.net

2010 Annual Meeting Agenda Thursday, September 16, 2010

Since we have many items to cover, with the exception of those giving reports, all other speakers will be limited to two (2) minutes each. No one will be allowed to speak a second time on a topic until all who want to speak on the topic have had a chance to speak.

- 1) Determination of Quorum**
- 2) Call to Order, Introductions**
- 3) Conduct of the Meeting**
- 4) Motions to approve the agenda and accept the election officials**
- 5) Review/Approve September 17, 2009 Annual Meeting Minutes and Notes from the February 18, 2010 Budget non-meeting**
- 6) ACC Report**
- 7) ACC Election**
Fill one 3-year position currently vacant as a result of Patrice Stevens' resignation. The new term ends at the 2013 Annual Meeting.
- 8) Board of Directors Election to Fill Vacancies**
Fill two 3-year positions currently occupied by Wayne Claybaugh (appointed by the board) and Duane Fitch. The terms of these positions end at the 2013 Annual Meeting.
Fill one 3-year position currently occupied by Jane King (appointed by the board). The term of this position ends at the 2012 Annual Meeting.
- 9) Water Committee Report**
- 10) Forest management update**
- 11) Financial Report**
- 12) Vehicle Parking Variance Procedure Announcement**
- 13) Schedule**
 - a) Annual Budget Meeting Date: **Thursday, Feb. 17, 6:30 p.m.** ("on or about Feb. 15th")
 - b) Board Meetings: Second Monday of each month, 7 pm, Monument Sanitation District board room, 130 Second Street, Monument.
- 14) Any Other Business**
- 15) Adjourn**
- 16) A brief board meeting will held following the annual meeting**
- 17) Education about Bent Tree for those interested – John Heiser**

Rules of Order for BTPOA Meetings

General

- Meetings will be conducted in accordance with *Robert's Rules of Order*. The chair rules on procedural questions. A majority vote is needed to override the chair's ruling.
- Please remain quiet and respectful while others are speaking. There must be no outbursts including applause, cheering, booing, heckling, etc. Avoid private conversations as they make it difficult for others to hear the proceedings.
- Display of signs and placards is distracting and is to be avoided.

Agenda

- Once the agenda is approved, a majority vote is needed to make changes.
- Motions not in keeping with the approved agenda will be ruled out of order.

Speaking

- Raise your hand and wait for the chair to call on you before speaking. This is called "obtaining the floor."
- State your first and last name and your home address slowly and clearly.
- Address your remarks to the chair, not to one another, or the group.
- During debate on a motion, it is best to start by saying something like "I support the motion because..." or "I oppose the motion because..."
- Be sure your remarks are germane to the current motion or topic. If the chair judges that your remarks are not germane, you will be ruled out of order.
- Each person will be limited to two minutes each time they are recognized.
- No person may speak a second time on a topic until all who want to speak on the topic have been heard. No person may speak more than twice on a topic.

Motions

- A member qualified to vote obtains the floor and states, "I move that ..." and then sits down. A second member qualified to vote seconds the motion.
- Once a motion has been moved and seconded, those wishing to speak on the motion or offer amendments may seek to obtain the floor.
- If an amendment to the motion is moved and seconded, debate and voting on the amendment must be completed before continuing debate and voting on the main motion.

Debate is closed:

- When it is evident to the chair that all who wish to speak have spoken, or
- When a motion to close debate is passed, or
- When the time allotted for debate on the topic expires and is not extended.

Voting

- To be allowed to vote, you must be a Bent Tree property owner of record and current in payment of the annual assessment.
- Voting in the ACC election is restricted to property owners who live in Bent Tree (“owner-occupants”).
- Voting will typically be handled in one of four ways:
 - **Unanimous consent:** The chair will ask if there are any objections. If none are voiced, the motion passes. If there is objection, the chair will typically then use one of the other methods of voting.
 - **Voice vote:** The chair will ask for all in favor and then all opposed and determine the outcome based on the responses. If the outcome is in question, the chair will typically then use a show of hands or balloting.
 - **Show of hands:** The chair will ask for all in favor and then all opposed and count hands raised in each instance. If the outcome is in question, the chair will typically ballot the issue.
 - **Balloting:** For each item voted on, each person will receive one ballot for each lot they own. One vote per lot. Ballot results will be read aloud.
- Most motions such as main motions and amendments require a majority vote, that is, “more than half of the votes cast” (i.e., a majority of 19 votes cast is 10, a majority of 20 or 21 votes is 11). Some motions such as to close debate or close nominations require a vote of at least two-thirds of the votes cast (i.e., two-thirds of 30 votes is 20, two-thirds of 31 votes is 21, two-thirds of 32 or 33 votes is 22). Abstentions, including the return of blank ballots, are not counted as votes cast.
- The chair votes only when balloting is being used or when the chair’s vote would change the outcome.

Elections

- At the chair’s discretion, elections may be conducted by unanimous consent or balloting.
- Each candidate must receive a majority of the votes cast in order to be elected.
- If not enough candidates to fill all the open positions receive a majority of votes, the results will be announced and another vote will be conducted for the remaining positions.

Recess and Adjournment

- A motion for recess is in order except when another person has the floor or a motion to adjourn is pending. A motion for recess must specify the time for resumption of the meeting.
- A motion to adjourn is in order except when another person has the floor.



Bent Tree Property Owners' Association, Inc.

P.O. Box 2631

Monument, Colorado 80132-2631

John Heiser, President - (719) 488-3455 – j.heiser@ieee.org

On the web at www.btpoa.net

Draft **2009 Annual Meeting Minutes**

Thursday, September 17, 2009, 6:30 p.m. – 8:30 p.m., YMCA

1. **Opening comments, conduct of the meeting, determination of quorum** –At 6:42 p.m. – BTPOA President John Heiser announced that based on a count conducted by Steve Fuhrmann, the quorum requirement for 39 lots represented in person or by proxy was satisfied. Everyone introduced themselves.
2. **Approval of the agenda and acceptance of the election officials** - Bill Owens moved to approve the agenda. Mark Wester seconded. All approved. Duane Fitch moved to accept Steve Fuhrman and Ron Britt as election officials, Rick Smith seconded, all approved.
3. **Approval of the minutes of the February 12, 2009 Budget Meeting** - Duane Fitch moved to approve the draft minutes from the February budget meeting as mailed to the membership. Bill Owens seconded. All approved.
4. **ACC Report** - Mark Wester, the acting ACC chair, explained the role of the ACC. He also introduced fellow ACC member Ron Restanio. Mark stressed that the ACC is striving to be more responsive and consistent with their decision-making. John Heiser noted that the ACC is also working to add an appendix to the BTPOA Rules and Regulations to document ACC policies.
5. **ACC Election** – The election was needed to fill one 3-year position currently occupied by Ron Restanio. The new term ends at the 2012 Annual Meeting. Ron agreed to stand for re-election. John Heiser called for other nominees, none were offered. Bob Hostetler moved to re-elect Ron, Ed Herlik seconded, all approved.
6. **Board of Directors Election** – The election was needed to fill two 3-year positions currently occupied by John Heiser and David Nix. The new term of these positions ends at the 2012 Annual Meeting. Both John and David agreed to stand for re-election. John turned the floor over to Duane Fitch to conduct the election. Duane called for other nominees, none were offered. Ron Britt moved to re-elect as a slate John and David, Bill Owens seconded, all approved.
7. **Water Committee Report**–John Heiser turned the floor over to Water Committee chair Jerry Lopez. Jerry explained the reporting requirements to the State Engineer's Office. He also explained how important returning the water usage cards is in reducing our costs to purchase water from Great Divide Water Company, which implements our water augmentation program.
8. **Forest management update on tree inspection** – John Heiser turned the floor over to David Nix. David talked about the Colorado State Forest Service tree inspection

conducted in April. Duane Fitch moved that we conduct a tree inspection again next year. Ron Britt seconded. All approved. John Heiser turned the floor over to John Anderson who reviewed some fire and beetle mitigation strategies and noted that several related documents are available on the BTPOA web site.

9. **Financial Report** – John Heiser presented the attached financial report.
10. **Status of rewrite of the Covenants for Filing I and II** – John Heiser turned the floor over to board member Mike Mastrodonato who has been coordinating the covenant rewrite effort. Mike presented information from the covenant re-write committee. Mike noted that since it is approaching 25 years since the covenants for Bent Tree Filings I and II were originally filed, there is an opportunity to change the covenants with an affirmative vote by a simple majority of the owners of the lots in those two filings. Mike handed out a paper that contained a proposed change to the covenants that would allow vehicle parking in front of residences under certain specified circumstances. Mike said that the BTPOA's attorney, Steve Lebel, had suggested that rather than attempt to change the covenants to define the circumstances under which such parking is allowed, that the board could adopt a variance procedure in its rules and regulations and could grant variances to allow parking in special circumstances without a change to the covenants. Ron Britt moved to have the board pursue a variance procedure with regards to parking. When the motion was voted, 46 were in favor, 7 were in opposition. John Heiser noted that the board would circulate any proposed variance procedure for comments by the property owners before the board considers including it in the Rules and Regulations.
11. **Any other business and adjournment** – At 8:55 pm, there being no further business, a motion to adjourn was unanimously approved.

Submitted by David Nix, October 7, 2009. Revised by John Heiser, November 9, 2009

9/17/2009

BTPOA 2009 BALANCE SHEET

Assets - Account Balances (9/17/09)	Interest	Rate
CD #1	\$ 6,603	\$ 29 0.66%
CD #2	\$ 23,015	\$ 113 0.74%
CD #3	\$ 40,441	\$ 199 0.74%
CD #4	\$ 12,882	\$ 64 0.74%
Working	\$ 9,419	\$ 4 0.88%
Total	\$ 92,359	\$ 408

Liabilities and Owner Equity

Plan Review Fees	\$ 3,150
Owner Equity	\$ 89,209
Total	\$ 92,359

Historical Perspective

Account Balances	12/31/2004	12/31/2005	12/31/2006	12/31/2007	12/31/2008	Change 07-08
CD #1	\$ 3,702	\$ 3,957	\$ 6,175	\$ 6,452	\$ 6,574	\$ 122
CD #2	\$ 20,475	\$ 20,794	\$ 21,529	\$ 22,428	\$ 22,902	\$ 474
CD #3	\$ 30,735	\$ 31,228	\$ 37,516	\$ 39,397	\$ 40,242	\$ 845
CD #4	\$ -	\$ -	\$ 12,000	\$ 12,548	\$ 12,818	\$ 270
Working	\$ 24,115	\$ 26,144	\$ 9,654	\$ 4,266	\$ 749	\$ (3,517)
Total	\$ 79,027	\$ 82,123	\$ 86,874	\$ 85,091	\$ 83,285	\$ (1,806)
Increase (Decrease)		\$ 3,096	\$ 4,751	\$ (1,783)	\$ (1,806)	\$ (23)

CD interest earned	\$ 3,605	\$ 1,711
CD interest rate	4.67%	2.12% CD interest rate

9/17/2009

BTPOA 2009 BUDGET VS. REVENUE AND EXPENSES

2009 budget approved January 12, 2008 by the BTPOA Board of Directors for presentation to the membership.

2009 budget revised February 9, 2009

2009 budget approved by the membership February 12, 2009

Expense Category	2008			2009			Description
	Budget	Actual	Diff	Budget	9/17/2009	Diff	
Architectural Control	\$ 300	\$ -	\$ (300)	\$ 300	\$ -	\$ (300)	Review of plans
Bank Charges	\$ -	\$ 32	\$ 32	\$ -	\$ 39	\$ 39	Service fees, return check charges, etc.
Beautification & Trails	\$ 6,000	\$ 11,345	\$ 5,345	\$ 6,000	\$ 880	\$ (5,120)	Maintenance of entrances, trails, roadside
Covenant Compliance	\$ 6,000	\$ 5,952	\$ (48)	\$ 6,000	\$ 5,171	\$ (829)	Jeanne Thomas, 10 hr/month, \$50/hr
Dues & Subscriptions	\$ 45	\$ 71	\$ 26	\$ 100	\$ 28	\$ (72)	Membership in NEPCO, PO box
Flood Control	\$ 200	\$ -	\$ (200)	\$ 200	\$ -	\$ (200)	Engineer's review plus maintenance work
Forestry Committee	\$ 300	\$ -	\$ (300)	\$ 3,300	\$ 990	\$ (2,310)	Beetle and mistletoe survey
Insurance	\$ 3,000	\$ 2,455	\$ (545)	\$ 2,500	\$ 2,511	\$ 11	Gen. liability, officers and directors liability
Legal and Professional	\$ 2,000	\$ 1,559	\$ (441)	\$ 2,000	\$ 1,335	\$ (665)	Attorney time, tax return preparation
Meetings	\$ 1,000	\$ 1,395	\$ 395	\$ 1,500	\$ 558	\$ (942)	Meeting room, refreshments, door prizes
Plan review refunds	\$ -	\$ 1,800	\$ 1,800	\$ -	\$ 1,350	\$ 1,350	Refund of plan review fees
Printing, Mailing & Supplies	\$ 3,800	\$ 1,381	\$ (2,419)	\$ 1,500	\$ 879	\$ (621)	BT Log, directory, notices, office supplies
Taxes	\$ 250	\$ 1,179	\$ 929	\$ 500	\$ 256	\$ (244)	Income taxes, corporate report
Utilities	\$ 400	\$ 377	\$ (23)	\$ 350	\$ 224	\$ (126)	Lights at Scottswood and Highway 105
Water Augmentation	\$ 11,000	\$ 10,461	\$ (539)	\$ 11,000	\$ 9,861	\$ (1,139)	BT share in Great Divide Water Company
Web Site	\$ 500	\$ 120	\$ (380)	\$ 500	\$ 157	\$ (343)	Web site hosting, software tools, etc.
Welcoming Committee	\$ 500	\$ 47	\$ (453)	\$ 500	\$ -	\$ (500)	Printing or purchasing materials, birdhouses
Reserve	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Surplus to cover contingencies
Total Expenses	\$ 35,295	\$ 38,174	\$ 2,879	\$ 36,250	\$ 24,240	\$ (12,010)	

Revenue Category	Budget	Actual	Diff	Budget	9/17/2009	Diff	Description
Dues (incl late fees)	\$ 30,840	\$ 33,915	\$ 3,075	\$ 30,840	\$ 30,684	\$ (156)	257 lots x \$120 per lot
HOA Statements	\$ 500	\$ 200	\$ (300)	\$ 200	\$ 330	\$ 130	4 x \$50 statement fee for sale/refinance
Plan Review Fees	\$ 200	\$ -	\$ (200)	\$ -	\$ 550	\$ 550	Assumes no house plans reviewed
Interest	\$ 2,000	\$ 1,718	\$ (282)	\$ 500	\$ 408	\$ (92)	Interest on CDs (0.6% on \$80,000)
Fines	\$ -	\$ 516	\$ 516	\$ -	\$ 537	\$ 537	Fines for Covenant Violations
Ads	\$ -	\$ 20	\$ 20	\$ -	\$ -	\$ -	Ads in the directory
From Reserves	\$ 1,755	\$ 1,805	\$ 50	\$ 4,710	\$ -	\$ (4,710)	To cover deficit
Total Revenue	\$ 35,295	\$ 38,174	\$ 2,879	\$ 36,250	\$ 32,509	\$ (3,741)	

\$ 8,269 Surplus (deficit) through 9/17/09



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Draft

2010 Budget Meeting Notes Thursday, February 18, 2010

Since we have many items to cover, with the exception of those giving reports, all other speakers will be limited to two (2) minutes each. No one will be allowed to speak a second time on a topic until all who want to speak on the topic have had a chance to speak.

1) Determination of Quorum

As of 6:40 pm, we have 34 and we need 39 for quorum.

2) Call to Order, Introductions

John Heiser called the meeting to order. Everyone in the room introduced themselves.

3) Conduct of the Meeting

We use Roberts Rules of Order when necessary.

4) Review/Approval of September 17, 2009 Annual Meeting Minutes

We will have to wait until this year's annual meeting to approve the minutes where we will hopefully have a quorum.

5) Board of Directors Election to Fill Vacancy

If you know of anyone who might be interested, please contact anyone who is currently on the Board of Directors.

6) Financial Report, Budget Discussion and Approval

John Heiser read through the 2009 budget and expenditures. No one in the audience had any issue with the 2009 budget and/or expenditures. John then read through the 2010 budget. He highlighted the major differences between the 2009 and 2010 budget amounts.

7) Water Committee Report (*John Heiser*)

Due to other commitments, John Heiser filled in for our Water Committee Chair, Jerry Lopez. John reviewed the prior year's water usage, highlighting the fact that some property owners have over-consumed their allotment. John also pointed out that some property owners have not been reliably returning their water usage cards. David Nix mentioned that we will have an email address that can be used to submit water usage.

8) Forest Report (*Larry Stevens*)

Larry reviewed last year's inspection and thanked those who participated. Larry recommended that we skip an inspection in 2010, and possibly conduct an inspection in 2011.

9) Vehicle Parking Variance Procedure Status and Discussion (*Mike Mastrodonato*)

Mike Mastrodonato distributed a DRAFT proposal for a parking variance. Views both pro and con were voiced from those in attendance at the meeting. A straw vote was taken whether or not the board should proceed with the investigation of a variance. 14 property owners were in favor of proceeding, and 7 were against it.

10) Schedule

- a) Annual Meeting Date: **Thursday, Sept. 16, 6:30 p.m.** ("on or about Sept. 15th")
- b) Board Meetings: Second Monday of each month, 7 pm, Monument Sanitation District board room, 130 2nd Street, Monument.
- c) Other Events – July 4th Potluck?

11) Any Other Business

Gladys Perry distributed a petition concerning the addition of a 4 way stop at Baptist/Hodgen and Roller Coaster Road.

12) Adjourn

Meeting was adjourned at 8:26pm.

Feb. 18, 2010: Submitted by David Nix.

March 8, 2010: Approved by the board for submission to the membership.

BTPOA 2010 BALANCE SHEET

Assets - Account Balances (9/16/10)

CD	\$ 80,654	1.21% Matures 12/28/2010
Working	\$ 15,231	
Total	\$ 95,885	

Liabilities and Owner Equity

Plan Review Fees	\$ 2,700
Owner Equity	\$ 93,185
Total	\$ 95,885

Historical Perspective

Account Balances	12/31/2004	12/31/2005	12/31/2006	12/31/2007	12/31/2008	CDs closed	12/31/2009	9/16/2010
CD #1	\$ 3,702	\$ 3,957	\$ 6,175	\$ 6,452	\$ 6,574	\$ 6,610	\$ -	\$ 80,654
CD #2	\$ 20,475	\$ 20,794	\$ 21,529	\$ 22,428	\$ 22,902	\$ 23,041	\$ -	
CD #3	\$ 30,735	\$ 31,228	\$ 37,516	\$ 39,397	\$ 40,242	\$ 40,486	\$ -	
CD #4	\$ -	\$ -	\$ 12,000	\$ 12,548	\$ 12,818	\$ 12,896	\$ -	
Working	\$ 24,115	\$ 26,144	\$ 9,654	\$ 4,266	\$ 749		\$ 90,708	\$ 15,231
Total	\$ 79,027	\$ 82,123	\$ 86,874	\$ 85,091	\$ 83,285		\$ 90,708	\$ 95,885
Increase (Decrease)		\$ 3,096	\$ 4,751	\$ (1,783)	\$ (1,806)		\$ 7,423	\$ 5,177
 CD interest earned				\$ 3,605	\$ 1,711		\$ 498	\$ 654
CD interest rate				4.67%	2.12%		0.60%	1.21%

BTPOA 2010 BUDGET VS. REVENUE AND EXPENSES

2010 budget approved January 25, 2010 by the BTPOA Board of Directors for presentation to the membership.

2010 budget approved by default at the membership budget meeting February 18, 2010

Expense Category	2009			2010			Description	% Budget
	Budget	12/31/2009	Diff	Budget	9/16/2010	Diff		
Architectural Control	\$ 300	\$ -	\$ (300)	\$ 300	\$ -	\$ (300)	Review of plans	0%
Bank Charges	\$ -	\$ 42	\$ 42	\$ -	\$ 26	\$ 26	Service fees, return check charges, etc.	-
Beautification & Trails	\$ 6,000	\$ 880	\$ (5,120)	\$ 1,000	\$ 445	\$ (555)	Maintenance of entrances, trails, roadside	45%
Covenant Compliance	\$ 6,000	\$ 6,686	\$ 686	\$ 7,000	\$ 4,533	\$ (2,467)	Jeanne Thomas, 10 hr/month, \$50/hr	65%
Dues & Subscriptions	\$ 100	\$ 73	\$ (27)	\$ 100	\$ -	\$ (100)	Membership in NEPCO, PO box	0%
Flood Control	\$ 200	\$ -	\$ (200)	\$ 200	\$ -	\$ (200)	Engineer's review plus maintenance work	0%
Forestry Committee	\$ 3,300	\$ 990	\$ (2,310)	\$ 1,000	\$ -	\$ (1,000)	Beetle and mistletoe survey	0%
Insurance	\$ 2,500	\$ 2,511	\$ 11	\$ 2,500	\$ 2,389	\$ (111)	Gen. liability, officers and directors liability	96%
Legal and Professional	\$ 2,000	\$ 1,547	\$ (454)	\$ 2,000	\$ 1,137	\$ (864)	Attorney time, tax return preparation	57%
Meetings	\$ 1,500	\$ 863	\$ (637)	\$ 1,000	\$ 370	\$ (630)	Meeting room, refreshments, door prizes	37%
Plan review refunds	\$ -	\$ 1,350	\$ 1,350	\$ -	\$ 450	\$ 450	Refund of plan review fees	-
Printing, Mailing & Supplies	\$ 1,500	\$ 902	\$ (598)	\$ 1,000	\$ 150	\$ (850)	BT Log, directory, notices, office supplies	15%
Taxes	\$ 500	\$ 345	\$ (155)	\$ 500	\$ (53)	\$ (553)	Income taxes, corporate report	-11%
Utilities	\$ 350	\$ 265	\$ (85)	\$ 350	\$ 234	\$ (116)	Lights at Scottswood and Highway 105	67%
Water Augmentation	\$ 11,000	\$ 9,861	\$ (1,139)	\$ 18,000	\$ 17,213	\$ (787)	BT share in Great Divide Water Company	96%
Web Site	\$ 500	\$ 313	\$ (187)	\$ 500	\$ 152	\$ (348)	Web site hosting, software tools, etc.	30%
Welcoming Committee	\$ 500	\$ -	\$ (500)	\$ 500	\$ -	\$ (500)	Printing or purchasing materials, birdhouses	0%
Total Expenses	\$ 36,250	\$ 26,628	\$ (9,622)	\$ 35,950	\$ 27,046	\$ (8,904)		75%

Revenue Category	Budget	9/17/2009	Diff	Budget	9/16/2010	Diff	Description	% Budget
Dues (incl late fees)	\$ 30,840	\$ 31,569	\$ 729	\$ 30,840	\$ 30,580	\$ (260)	257 lots x \$120 per lot	99%
HOA Statements	\$ 200	\$ 300	\$ 100	\$ 200	\$ 450	\$ 250	4 x \$50 statement fee for sale/refinance	225%
Plan Review Fees	\$ -	\$ 1,100	\$ 1,100	\$ -	\$ -	\$ -	Assumes no house plans reviewed	-
Interest	\$ 500	\$ 506	\$ 6	\$ 240	\$ 666	\$ 426	Interest on CDs (0.3% on \$80,000)	277%
Fines	\$ -	\$ 577	\$ 577	\$ -	\$ 518	\$ 518	Fines for Covenant Violations	-
Ads	\$ -	\$ -	\$ -	\$ -	\$ 10	\$ 10	Ads in the directory	-
From Reserves	\$ 4,710	\$ -	\$ (4,710)	\$ 4,670	\$ -	\$ (4,670)	To cover deficit	0%
Total Revenue	\$ 36,250	\$ 34,052	\$ (2,198)	\$ 35,950	\$ 32,223	\$ (3,727)		90%

Expectation at this point in the year 75%

Surplus (deficit) through 12/31/09 \$ 7,423

\$ 5,177 Surplus (deficit) as of 9/16/2010

John Heiser

From: John Heiser [eon3@comcast.net]
Sent: Wednesday, July 14, 2010 9:09 AM
To: John Heiser
Subject: BTPOA message: The board's decision regarding parking variances

Dear Bent Tree Property Owner,

The Bent Tree Property Owners' Association Board of Directors has unanimously voted to discontinue work on developing a procedure for granting variances for vehicle parking in Bent Tree. I am writing to explain this action by your board.

History

This topic was discussed at the BTPOA Annual Meeting in September 2009 and the BTPOA Budget Meeting in February 2010. At both of those meetings, a majority of attendees supported the idea of having the board research the topic and draft a variance procedure. The general feeling seemed to be that if something reasonable could be developed, it could be put to a vote of the membership and, if there were sufficient votes in favor, it could be implemented in the BTPOA Rules and Regulations. The board consulted with attorney Steve Lebel, obtained information on variance procedures used in other homeowners' associations, and discussed the topic with residents and at our monthly board meetings.

Reasons for the board's decision to stop work on the variance procedure

It was the board's unanimous view that granting parking variances would create an unacceptable degree of liability for the BTPOA.

If a parking variance were to be granted, other Bent Tree property owners might bring suit against the BTPOA for not enforcing the covenants we all agreed to when we bought our properties. It could be argued that granting the parking variance negatively affected property values.

If a requested parking variance were not granted, the property owner requesting the variance might bring suit against the BTPOA for being arbitrary and capricious in its decision. The owner could argue that denial of the request resulted in costs for construction of additional garage space or carried other negative financial impacts.

Your board members struggled with how to create an equitable process. Some issues involved:

- Who should be notified that a parking variance hearing is to be held? Should it be the adjacent neighbors, everyone within some distance (say 1,000 feet), or all of Bent Tree? Is e-mail notification of an upcoming parking variance hearing adequate or should we mail notices? Do we need to have proof of delivery of the notices? Inadequate notice to other property owners could be an important factor in suits brought against the BTPOA.
- What sort of hardship should be considered sufficient justification for a parking variance? Can that be defined clearly in the Rules and Regulations so it can be consistently applied even as the composition of the board changes from year to year?
- What weight should be given to objections from the neighbors? If any neighbor objects should that be sufficient to veto the requested parking variance?
- If the board were to grant some parking variance requests and deny others, charges of favoritism or inconsistency could be brought.
- If the board never grants variance requests then what is the point of having the procedure?
- If the board always grants variance requests, then that part of the covenants has been nullified without going through the legal procedure specified in the covenants for making that kind of change.

- Covenant restrictions on vehicle parking may be important considerations when prospective buyers are making property purchase decisions. How can the association ensure that purchasers of property in Bent Tree are aware that the parking variance procedure exists?
- Enforcement of the vehicle parking covenants would be made considerably more complicated and expensive. Records would have to be maintained as to who has been granted what variance and for what period. If the variance is for a specific driver of a specific vehicle, who is going to keep track of when someone else is driving that vehicle or if the vehicle is replaced with a different vehicle? If someone is cited for a vehicle parking covenant violation, they may use the variances granted to other property owners as proof that the rules are not being enforced equitably.

After taking all of these things into consideration, the board concluded that implementing a parking variance procedure would be inconsistent with our fiduciary responsibility to the Bent Tree property owners.

The board felt it was important to let you all know that because of these concerns, we have decided to stop work on developing a parking variance procedure.

Please let me know if you have any questions.

Thank you.

Regards,

John Heiser

President

Bent Tree Property Owners' Association

(719) 488-3455

<mailto:j.heiser@ieeee.org>

This mailing list is operated by the Bent Tree Property Owners' Association (BTPOA), P.O. Box 2631, Monument, CO 80132, www.btpoa.net. Users are the elected Board of Directors and their designees, such as committee chairs. Use of this mailing list will be occasional news and announcement from your Board of Directors.

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