



Bent Tree Property Owners' Association, Inc.

P.O. Box 2631
Monument, Colorado 80132-2631
www.btpoa.net

2011 Budget Meeting Agenda Thursday, February 16, 2012

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 – *John Heiser***
- 3) Conduct of the Meeting – *John Heiser***
- 4) Review/Approval of September 15, 2011 Annual Meeting Minutes – *John Heiser***
- 5) Financial Report, Budget Discussion and Approval – *John Heiser***
- 6) ACC Report – *Mark Wester***
- 7) Water Committee Report – *Bob Hostetler***
- 8) Forestry Committee Report – *John Anderson***
- 9) BTPOA Rules and Regulations Version 9 – *John Heiser***
- 10) Trash Service – *Duane Fitch***
- 11) Meeting Schedule**
 - a) Proposed Annual Meeting Date: **Thursday, Sept. 13, 6:30 p.m.** (“on or about Sept. 15th”)
 - b) Board Meetings: Second **Wednesday** of each month, 6 pm, Monument Sanitation District board room, 130 2nd Street, Monument.
 - c) Other Events – July 4th Potluck?
- 12) Any Other Business**
- 13) Adjourn**

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.



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2011 Annual Meeting Minutes (DRAFT) **Thursday, September 15, 2011, 6:30 p.m.**

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** – determination of quorum made by Steve Fuhrmann. Sixty-three lots were represented in person or by proxy at the meeting.
- 2) **Call to Order, Introductions, Conduct of the Meeting** – *John Heiser* – called meeting to order at 6:39 pm.
- 3) **Motions to approve the agenda and accept the election officials** – *John Heiser*- motion made to approve agenda by Duane Fitch, seconded by Wayne Claybaugh, all in favor. Motion made to accept election officials who were Jim Maser and Steve Fuhrman, made by Wayne Claybaugh, seconded by Duane Fitch, all in favor.
- 4) **Review/Approve Minutes from the February 17, 2011 Budget Meeting** – *John Heiser* – motion made by Duane Fitch to approve minutes from 2/17/11, seconded by Debbi Maser, all in favor.
- 5) **ACC Report** – *Mark Wester*- let homeowners know that he has boxes of plans for homes that were submitted to the ACC and on Sunday September 18, 2011 Mark wanted homeowners to come by and go through the boxes and take the plans for their home. Any plans not picked up are going to be thrown out. Mark let everyone know the ACC meets the first Wednesday of every month at 7 pm at Village Inn. The ACC is a resource for homeowners. The ACC is working on an online application that would be mainly web based.
- 6) **ACC Election** – *John Heiser*
Fill one 3-year position currently occupied by ACC Chair Mark Wester. The new term ends at the 2014 Annual Meeting. – Mark Wester was the only homeowner up for election to this position and a motion was made by Duane Fitch to elect Mark to another term, seconded by Matt Dunston, all in favor.
- 7) **Board of Directors Election** – *John Heiser*
Fill one 3-year position currently occupied by Mike Mastrodonato. The new term ends at the 2014 Annual Meeting. – Mike Mastrodonato announced he would not be willing to run for another term after all. Only one homeowner volunteered to fill the position and that was Matt Dunston. Motion made by Wayne Claybaugh to elect Matt opposition, seconded by David Hollenbach, all in favor.
- 8) **Discussion of Vehicle Parking Vote** – *John Heiser*- John gave an overview on the parking vote results. The results are posted on the BTPOA website.
- 9) **Committee Reports**
 - a) **Beautification and Trails** – *Mike Mastrodonato and Leslie Velez*- Mike introduced Leslie Velez, the new chair of the Beautification and Trails committee. Leslie encouraged those interested in helping with Beautification and Trails to sign up for the committee.

- b) **Covenant Compliance** – *John Heiser and Jane King* – John and Jane reviewed CCC and where it stands and suggestions for how the CCC can work with homeowners who need to implement appropriate vehicle screening. John cited improvements in the tone of the letters being sent and the development of a CCC procedures manual. Jane noted the importance of coordination of CCC and ACC activities. Property owners were encouraged to join the CCC
 - c) **Directory and Website** – *Wayne Claybaugh* – Wayne indicated that the directory is updated now and will be updated at least one time a year. Steve Fuhrman provided directory access information.
 - d) **Water Augmentation** – *John Heiser for Bob Hostetler*- Has discussion on surface water and water augmentation program and annual reporting by homeowners on water usage. Bob Hostetler, as Chair of committee, could use help with this committee.
 - e) **Forest Management** – *John Anderson*- discussed seriousness of beetle kill and the fact that the HOA pays for forest inspections to be conducted by the Colorado State Forest Service. Homeowners were mailed cards which needed to be signed and returned giving the HOA and forest inspection staff permission to inspect properties. Out of 257 lots, 56 did not respond and several people did follow up calls. Eight owners said they had inspected their property and did not need an inspection. After that, there were still 48 lots that did not respond. A suggestion was made that future permission forms allow property owners to grant permission for as long as they own their properties. It was also suggested that firefighters might be willing to remove trees as part of their wildland firefighting training.
- 10) **Financial Report** – *John Heiser*- reviewed financial information with homeowners present. The vehicle parking covenant change cost \$6,246 in legal fees with \$1,833 of that spent in 2010 and the remainder spent in 2011. The total of the CD and the working account stands at \$84,480. The net deficit (income minus expenses) so far in 2011 is \$6,942.
- 11) **Discussion of Proposed Changes to the BTPOA Rules and Regulations** – *John Heiser*- discussed proposed changes to Rules and Regulations. Residents were encouraged to provide comments or attend the October board meeting where this will be discussed further.
- a) It was suggested that for those property owners who have no changes in irrigated area and anticipate no changes in irrigated area should not have to send in the yellow card each year.
 - b) It was suggested that the sentence in 4.6.2.6 offering lot-specific variances for overnight visitors staying more than two weeks should remain for situations such as caregivers and hospice workers and college students home for the summer.
 - c) It was suggested that, as is done in nearby subdivisions, vehicle parking should be handled based on complaints rather than using tours.
- 12) **Meeting Schedule** – *John Heiser*
- a) Annual Budget Meeting Date: **Thur., Feb. 16, 2012, 6:30 p.m.** (“on or about Feb. 15th”)
 - b) Board Meetings: Second Tuesday of each month, 6 pm, Monument Sanitation District board room, 130 Second Street, Monument.
- 13) **Any Other Business**
- 14) **Adjourn** – Motion made to adjourn by Duane Fitch, seconded by Mark Wester, all in favor.
- 15) **A brief board meeting will held following the annual meeting** – Board met briefly and tabled any discussions until next Board meeting on October 11, 2011.
- 16) **Education about Bent Tree for those interested** – *John Heiser*

BTPOA 2012 BALANCE SHEET

Assets: Account balances as of 2/16/2012

CD 1 year*	\$ 38,037	0.70% Matures 11/28/2012
CD 6 month*	\$ 38,058	0.40% Matures 5/28/2012
Working	\$ 18,776	
Total	\$ 94,871	

*Includes interest accumulated but not yet credited

Liabilities and Owner Equity

Plan Review Fees	\$ 2,250
Owner Equity	\$ 92,621
Total	\$ 94,871

Historical Perspective

Account Balances	12/31/2004	12/31/2005	12/31/2006	12/31/2007	12/31/2008	12/31/2009	12/31/2010	12/31/2011	2/16/2012
CD #1	\$ 3,702	\$ 3,957	\$ 6,175	\$ 6,452	\$ 6,574	\$ -	\$ 80,899	\$ 38,000	\$ 38,037
CD #2	\$ 20,475	\$ 20,794	\$ 21,529	\$ 22,428	\$ 22,902	\$ -	\$ -	\$ 38,000	\$ 38,058
CD #3	\$ 30,735	\$ 31,228	\$ 37,516	\$ 39,397	\$ 40,242	\$ -	\$ -	\$ -	\$ -
CD #4	\$ -	\$ -	\$ 12,000	\$ 12,548	\$ 12,818	\$ -	\$ -	\$ -	\$ -
Working	\$ 24,115	\$ 26,144	\$ 9,654	\$ 4,266	\$ 749	\$ 90,708	\$ 10,523	\$ 6,028	\$ 18,776
Total	\$ 79,027	\$ 82,123	\$ 86,874	\$ 85,091	\$ 83,285	\$ 90,708	\$ 91,422	\$ 82,028	\$ 94,871
Increase (Decrease)		\$ 3,096	\$ 4,751	\$ (1,783)	\$ (1,806)	\$ 7,423	\$ 714	\$ (9,394)	\$ 12,843
 CD interest earned				\$ 3,605	\$ 1,711	\$ 498	\$ 899	\$ 790	\$ 95
CD interest rate				4.67%	2.12%	0.60%	1.21%	1.07%	0.55%

BTPOA 2012 BUDGET VS. REVENUE AND EXPENSES

2011 budget approved January 10, 2012 by the BTPOA Board of Directors
For presentation to the property owners at the budget meeting February 16, 2012.

Expense Category	2011			2012			Description	% Budget
	Budget	12/31/2011	Diff	Budget	2/16/2012	Diff		
Architectural Control	\$ 300	\$ -	\$ (300)	\$ 300	\$ -	\$ (300)	Review of plans	0%
Bank Charges	\$ -	\$ 31	\$ 31	\$ 50	\$ 23	\$ (27)	Service fees, return check charges, etc.	46%
Beautification & Trails	\$ 1,000	\$ 444	\$ (556)	\$ 2,000	\$ -	\$ (2,000)	Maintenance of entrances, trails, roadside	0%
Dues & Subscriptions	\$ 100	\$ 64	\$ (36)	\$ 100	\$ -	\$ (100)	Membership in NEPCO, HOA Registration	0%
Flood Control	\$ 200	\$ 500	\$ 300	\$ 200	\$ -	\$ (200)	Engineer's review plus maintenance work	0%
Forestry Committee	\$ 1,000	\$ 1,442	\$ 442	\$ 1,500	\$ -	\$ (1,500)	Beetle and mistletoe survey	0%
Insurance	\$ 2,500	\$ 2,489	\$ (11)	\$ 2,500	\$ -	\$ (2,500)	Gen. liability, officers and directors liability	0%
Legal and Professional	\$ 6,000	\$ 10,882	\$ 4,882	\$ 6,000	\$ -	\$ (6,000)	Attorney time, tax return preparation**	0%
Meetings	\$ 1,000	\$ 666	\$ (334)	\$ 1,000	\$ 120	\$ (880)	Meeting room, refreshments, door prizes	12%
Plan review refunds	\$ -	\$ 900	\$ 900	\$ 900	\$ -	\$ (900)	Refund of plan review fees	-
Printing, Mailing & Supplies	\$ 1,000	\$ 1,133	\$ 133	\$ 1,200	\$ -	\$ (1,200)	BT Log, directory, notices, office supplies	0%
Secretarial/Admin Support	\$ 7,000	\$ 6,685	\$ (315)	\$ 7,000	\$ 373	\$ (6,627)	Administrative assistance*	5%
Taxes	\$ 500	\$ 171	\$ (329)	\$ 200	\$ -	\$ (200)	Income taxes, corporate report	0%
Utilities	\$ 350	\$ 338	\$ (12)	\$ 350	\$ 32	\$ (318)	Lights at Scottswood and Highway 105	9%
Water Augmentation	\$ 18,000	\$ 17,466	\$ (535)	\$ 18,000	\$ 16,860	\$ (1,140)	BTPOA share in Great Divide Water Company	94%
Web Site	\$ 500	\$ 639	\$ 139	\$ 1,000	\$ -	\$ (1,000)	Web site hosting, software tools, etc.	0%
Welcoming Committee	\$ 500	\$ 148	\$ (352)	\$ 250	\$ -	\$ (250)	Printing or purchasing materials, birdhouses	0%
Total Expenses	\$ 39,950	\$ 43,998	\$ 4,048	\$ 42,550	\$ 17,408	\$ (25,142)	* At the discretion of the CCC	41%
Revenue Category	Budget	12/31/2011	Diff	Budget	2/16/2012	Diff	Description	% Budget
Dues (incld late fees)	\$ 30,840	\$ 32,260	\$ 1,420	\$ 30,840	\$ 29,955	\$ (885)	257 lots x \$120 per lot	97%
HOA Statements	\$ 200	\$ 700	\$ 500	\$ 200	\$ 200	\$ -	4 x \$50 statement fee for sale/refinance	100%
Plan Review Fees	\$ -	\$ 550	\$ 550	\$ -	\$ -	\$ -	Assumes no house plans reviewed	-
Interest	\$ 800	\$ 795	\$ (5)	\$ 400	\$ 95	\$ (305)	Interest on CDs (0.53% on \$76,000)	24%
Fines	\$ -	\$ 300	\$ 300	\$ -	\$ -	\$ -	Fines for Covenant Violations	-
Ads	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	Ads in the directory	-
From Reserves	\$ 8,110	\$ 9,394	\$ 1,284	\$ 11,110	\$ -	\$ (11,110)	To cover deficit	0%
Total Revenue	\$ 39,950	\$ 43,998	\$ 4,048	\$ 42,550	\$ 30,250	\$ (12,300)		71%
Expectation at this point in the year								21%
Surplus (deficit) through 12/31/11				\$ (9,394)	\$ 12,843		2/16/2012 Surplus (deficit)	
					\$ -		- Difference from balance sheet	
2010		2011						
**Covenant vote legal fees		\$ 1,833	\$ 4,413	\$ 6,246	Total covenant vote legal fees			

- “3. **DWELLING SIZE:** ...Automobiles and small boats will not habitually be parked overnight outside of garages.”
- “19 [20 in the Bent Tree IV and V Covenants].. **VEHICLE PARKING AND EQUIPMENT:** No vehicles shall be stored or parked within the subdivision except in a closed garage; however, recreation vehicles to include travel trailers, horse trailers, campers, boats or a motor home and various equipment may be kept in an organized manner to the rear of a house if not readily visible from public streets nor reasonably from other lots within the subdivision. Screening such vehicles from public view with proper garaging or fencing, approved by the ACC, is recommended. The intent of this covenant is to prevent clutter and enhance natural appearance.”

4.6.2 PERMITTED. A literal interpretation of the Covenants precludes many daily activities. The parking situations listed below allow us to use our properties for customary activities.

4.6.2.1 Emergency Vehicles: In accordance with Colorado State Statutes, outdoor parking of emergency is permitted provided the vehicle bears an official emblem or other visible designation of an emergency service provider, weighs less than 10,000 lbs, and is required by the owner's or resident's employer to be parked at the owner's or resident's residence as a condition of the owner's or resident's employment or volunteer status with a primary provider of emergency fire fighting, law enforcement, ambulance, or emergency medical services.

4.6.2.2 Recreation Vehicle Prep and Clean-up: Outdoor parking three days before and three days after RV use is permitted. Longer periods of outdoor RV parking may be permitted if approved by the CCC. The intent of this guideline is to maintain a generally vehicle-free appearance; not to link three-day cleanup and prep parking under a rule technicality to create substantially continuous parking.

4.6.2.3 Vehicles not Visible from Street but Visible to Neighbors: The BTPOA will not proactively enforce vehicles and equipment “kept in an organized manner to the rear of a house if not readily visible from public streets nor reasonably from other lots within the subdivision” where the property is not readily visible from the streets. If a neighbor objects to the parking, then the owner is obligated under the Covenants to make other arrangements. In other words, as long as the property complies with Covenants from the perspective of public streets (including Highway 105, Roller Coaster Road and Higby Road), then covenant enforcement shifts to complaint basis.

4.6.2.4 Vehicle Type and Condition: Vehicles parked visibly under the situations described below are to be fully functional and properly licensed passenger vehicles or small trucks rated at no more than $\frac{3}{4}$ ton capacity.

4.6.2.5 Day Visitors: Guests and visitors may park on driveways (and on the streets if necessary).

4.6.2.6 Overnight Visitors: Extra vehicles for your guests up to two weeks are permitted. ~~Longer periods with a definite end date will be permitted if approved by the Board.~~

only be changed by Declarant. Declarant, its successors or assigns, reserves the right to erect and maintain an entrance sign on tracts at either side of the street at each entry point into Bent Tree, along with gateways, posts, walls, signs and other structures both to permanently identify Bent Tree and to market it. In addition, declarant reserves the right to place signs on any lot in the subdivision as Declarant deems necessary for safety or traffic guidance, and purchasers of tracts in Bent Tree agree thereto."

4.8.2 PERMITTED. Colorado law subsequent to the writing of the Covenants permits political signs as specified in paragraph 4.8.2.1.

4.8.2.1 Political Signs. An owner may display one political sign per political office or ballot issue that is contested in an election. Political signs may be no larger than 36" x 48" or the maximum allowed by any applicable county ordinance that regulates the size of political signs on residential property, whichever is smaller.

4.8.2.2 Garage Sale Signs. Signs directing traffic to garage sales are permitted two days before through the last day of the sale and must be removed promptly.

4.8.2.3 BTPOA Signs. As described in Section 5.10 below, the BTPOA will post temporary signs announcing membership meetings. From time to time, the BTPOA may post other announcements. These will typically be at Bent Tree entrances and key intersections.

4.8.3 PROHIBITED.

4.8.3.1 Business Signs. Business, commercial, and non-profit signs are not permitted.

4.8.3.2 Builder Signs after work is finished. Builder signs approved by the Covenants apply also to remodelers, roofers, etc. All such signs must be removed when the work is finished.

4.9 DEAD AND DISEASED TREES

4.9.1 COVENANTS.

- Bent Tree I, II and III: 10. and Bent Tree IV and V: 11. **CLEARING OF TREES:** Approval shall be obtained from Declarant or subsequently, the ACC, to cut down or clear any trees on any tract, except dead trees, reasonable thinning of trees of four (4) inches diameter or less, or for infestation control. Owners of lots shall dispose of such cleared trees in a way to prevent accumulations of brush, stumps, trash, or other materials which may constitute a fire hazard or render a tract unsightly, provided, however, that this shall not operate to restrict purchasers from storing fireplace wood in neat stacks on their tracts. Owners are responsible for prompt treatment or removal of trees infected by pine beetle or other insects which can kill trees within a year and might spread to adjacent trees and lots, and to reasonably contain any trees with slow parasitic growth such as mistletoe.
- Bent Tree I, II and III: 14. and Bent Tree IV and V: 15. **NUISANCE:** Nothing shall be done or permitted on any lot which may be or become an annoyance or nuisance to the neighborhood.

4.9.2 PERMITTED. Diseased, dead, or downed trees in remote areas of the property may remain unless deemed by the [ACC](#), [CCC](#), or the [Forest Management Committee \(FMC\)](#) to be a hazard, a nuisance, or unsightly. Such trees are part of the natural forest environment. Removal of trees, shrubs, and vegetation to comply with a written defensible space plan created for the property by a forestry professional is permitted.

4.9.3 PROHIBITED. Owners are responsible for the prompt removal of diseased, dead, or downed trees that are deemed by the CCC or the FMC to be a hazard, a nuisance, or unsightly. Beetle-infested trees must be removed no later than June 1 to reduce the spread of beetle infestation.

4.10 ANIMALS

4.10.1 Covenants

- "14 [15 in the Bent Tree IV and V Covenants] **NUISANCE:** Nothing shall be done or permitted on any lot which may be or become an annoyance or nuisance to the neighborhood. ... No activity shall be permitted which will generate a noise level sufficient to interfere with the reasonable quiet enjoyment of the persons on any adjoining or nearby lots."
- Bent Tree, I, II, III, IV, V: "21. **ANIMALS:** A. No animals or livestock of any kind shall be housed, raised or kept on any tract or property either temporarily or permanently, except that commonly accepted domestic household pets may be kept provided that they are not kept or maintained for any commercial purposes. B. Dogs shall not be permitted to run loose and shall be kept under control of owners at all times. Kennels for the commercial raising, breeding and boarding of animals are prohibited."
- Bent Tree III: "21. **ANIMALS:** C. and Bent Tree IV, V: 22. **ANIMALS:** C. Fences for animals will be at least five (5) feet high of solid wood or masonry. Colors will be compatible with the main dwelling. Proper maintenance is required. Such fences must be preapproved in writing by the ACC which will be highly sensitive to the ambiance of the neighborhood to include appearance from the streets and adjacent lots. Under no circumstances will dogs be allowed to run loose in the neighborhood. The use of electronic pet containment (invisible) fences in lieu of conventional fencing is strongly recommended."
- Bent Tree IV, V: "22. **ANIMALS:** A. Barking dogs are considered a nuisance and owners will act to restrain them."

4.10.3 PROHIBITED: Any dog not under control. Barking dogs are considered a nuisance and owners must act to restrain them. Property owners are responsible for cleaning up after their animals.

SECTION 5. POLICIES AND PROCEDURES

5.1 AMENDING THESE RULES AND REGULATIONS

To amend these Rules and Regulations requires an affirmative vote of a majority of the then current members of the Board of Directors. Note that this may require more affirmative votes than a simple majority vote at a Board meeting. For example, if only three members of the five-member Board are present at a Board meeting, all three must vote affirmatively for an amendment to be approved.

In any case where the Board is adopting a major policy or a rule that will carry a fine, notice shall be sent to the BTPOA members prior to adopting the final policy or rule. This announcement can be made by mail, in a newsletter, or by e-mail, and the owners should be told how they can obtain a copy of the proposed rule or policy (such as a posting to a web site). The Board may invite comments from the owners and those comments should be included in the Board meeting minutes, which should name those owners, describing their comments and the actions taken as a result of those comments.

5.13.1 LOANS. No loans shall be made by the BTPOA to its directors or officers. Any director or officer who assents to or participates in the making of any such loan shall be liable to the BTPOA for the amount of the loan until it is repaid.

5.13.2 DISCLOSURE OF CONFLICTS. Any conflicting interest transaction on the part of any director or party related to a director shall be verbally disclosed to the other directors in open session at the first open meeting of the Board at which the interested director is present prior to any discussion or vote on the matter.

5.13.3 PARTICIPATION. After disclosure, the director may participate in the discussion, if approved by a majority of the other directors, but **may not vote** on the matter. If treating the director who disclosed the conflict as absent results in the Bylaws quorum requirement not being satisfied, the matter shall be tabled. The minutes of the meeting shall reflect the disclosure made, the composition of the quorum, and, in the case a vote is taken, a record of who voted for and against.

5.13.4 VOIDABLE TRANSACTIONS. Conflicting interest transactions shall be voidable if not approved in accordance with this policy.

5.13.5 RECORDINGS. Audio or video recording of membership or Board meetings is prohibited; however, the official record-keeper at any meeting may, at the sole discretion of the Board, tape-record or otherwise transcribe meetings. Recordings made by the official record-keeper may be retained only until the minutes of that meeting have been approved.

5.14 QUESTIONS OF CONSTRUCTION

If any doubt or questions arise concerning the true intent or meaning of the covenants or these rules and regulations, the Board shall determine the proper construction of the provision in question, and shall set forth in a written statement the meaning, effect, and application of the provision. These determinations shall thereafter be binding on all parties so long as they are not arbitrary or capricious, and they may be filed for record with the Clerk and Recorder of El Paso County.

SECTION 6. PROPERTY OWNER RESPONSIBILITIES

This section highlights some specific Bent Tree property owner responsibilities.

6.1 COVENANT COMPLIANCE

Bent Tree Property owners must be familiar with and comply with the covenants applicable to their properties and must also be familiar with and comply with the covenant clarifications provided in Section 4 of this document.

6.2 REPORTING NEEDED FOR WATER AUGMENTATION PLAN

Implementation of the court-mandated water augmentation plan for Bent Tree requires all Bent Tree property owners to provide to the Bent Tree Water Augmentation Committee (WAC) annual reports of the amount of irrigated area on their property.

If there is any irrigated area on an owner's property, that owner must provide the WAC with an up-to-date map or drawing of the irrigated area and any other information requested by the WAC. The WAC typically issues an annual request to all property owners to obtain this information.

Those lots that are required to have water meters installed must provide their meter readings as requested by the WAC.

6.3 FOREST MANAGEMENT

All Bent Tree property owners have a responsibility to monitor and maintain the health of the forest on their properties in accordance with Section 4.9. The BTPOA established the Bent Tree Forest Management Committee (FMC) to assist property owners in maintaining a healthy forest.

To insure that the health of the forest throughout Bent Tree is being maintained, the FMC may arrange for periodic forest inspections at no additional cost to property owners. In order to conduct those inspections, the FMC may request permission from property owners for access to their properties.

When the FMC requests permission by April 1, then by May 1, property owners who do not respond to the FMC's request for access or who deny access to their properties, must supply the FMC with written confirmation from the Colorado State Forest Service or personnel with equivalent forest inspection experience that their property has been inspected and the outcome of that inspection. This offers the possibility that property owners could self-inspect provided they can demonstrate adequate forest inspection training and/or experience.

Note: In the case of property owners who fail to participate in the Bent Tree-wide forest inspections and also fail to provide evidence that they have had an inspection performed, then it will be presumed that beetle damage on adjacent lots was the result of beetles coming from those property owners' properties.

All property owners must arrange for the prompt removal of all beetle-infested trees identified on their properties. To reduce the spread of beetle infestation, beetle-infested trees must be removed no later than June 1.

Within 30 days following removal of beetle-infested trees, written confirmation using the form in Appendix C must be supplied to the FMC.

SECTION 67. SUMMARY OF CHANGES.

Version 1 was adopted by the Board January 9, 2005.

Version 2 was adopted by the Board August 20, 2006:

- Renumbered paragraphs to move all covenant clarification material into Section 4 and add policies and procedures Section 5.
- Added exemption for outdoor parking of emergency vehicles to Vehicle Parking paragraph in Section 4. Rearranged and simplified Vehicle Parking paragraph.

Version 5 was adopted by the Board February 9, 2009

- Changed Section 5.10 to provide e-mail notification of membership meetings to all owners who have provided the BTPOA with an e-mail address and mailed notices for all other owners.
- Removed references to submitting e-mail addresses using the BTPOA web site.

Version 6 was adopted by the Board April 13, 2009

- Changed Section 5.2.2.4 to provide for the board to appoint BTPOA members to serve as part of hearing boards.

Version 7 was adopted by the Board May 10, 2010

- Changed Appendix A, Schedule of Fines, to set fine of \$0.05 per gallon for excessive water use and added \$100 per year fine for failure to submit map or schedule of irrigated area

Version 8 was adopted by the Board April 12, 2011

- Added clickable links to the table of contents.
- Added Impartial Decision Maker (IMP) to the list of terms.
- Changed 4.6.2.6 (Vehicle Parking-Overnight Visitors) so periods longer than two weeks require Board approval instead of CCC approval.
- Expanded Section 4.9.2 (Dead and Diseased Trees-Permitted) to permit removal of trees, etc. to comply with a written defensible space plan.
- Expanded Section 5.1 (Amending These Rules and Regulations) to include prior notice to property owners of proposed rulemaking and notice of rules adopted.
- Expanded Section 5.2.2 (Covenant Enforcement-Procedures) to include qualifications for CCC members, the role of IMP, and additional policies regarding hearings, fines, and other sanctions.
- Expanded Section 5.3 (Collections) to say that assessments and fines more than three months past due may be referred to the BTPOA's attorney.
- Added to Section 5.5 (Investment of Reserve Funds) that reserve studies will be conducted when required by the Board or one-third of the owners.
- Changed Section 5.6 (Financial Records, Reviews, And Audits) to call for a financial review at least every three years and financial audit as determined by the Board or requested by one-third of the owners.
- Added to Section 5.10.2 (Board Meetings) that all Board members have equal access to information.
- Added to Section 5.11.2 (Elections) that the Board may reject votes, proxies, or ballots it believes to be invalid.
- Added Section 5.13.5 (Recordings).
- Added Section 5.14 (Questions of Construction).
- Added Appendix B (Document Request Form) and added in Section 5.7.3 a requirement to use the form.

Version 9 was adopted by the Board January 10, 2012

- Added Section 4.10 (Animals).

- Deleted provision in 4.6.2.6 (Vehicle Parking, Permitted, Overnight Visitors) for granting permission for extended stays by overnight visitors.
- Added Section 6 (Property Owner Responsibilities).
- Appendix A (Schedule of Fines): Added item for failure to file forest inspection documentation.
- Added Appendix C (Certification of Tree Removal)

Appendix A: BTPOA Schedule of Fines For Commonly Occurring Covenant Violations

Adopted by the BTPOA Board—August 13, 2007

Offense	Example Violation	Fines	Comments
Late Payment of Assessment	Payment of annual assessment is due Jan. 1 and considered late Feb. 1	\$10 per month starting Feb. 1	Established by the Covenants, imposed by the Treasurer
Animal Violations	Barking dogs, animal waste, unrestrained or loose animal, animal threatening behavior, animal biting	\$100 - \$1,500 per incident	If warranted, owners of aggressive dogs may be requested to relocate the animal.
Parking Violations	Vehicles parked outside garage in violation of covenants and rules and regulations. Includes boats, trailers, and RVs	\$100 per passenger vehicle \$200 per boat, trailer, or RV	Each day that a violation remains uncorrected may be considered a new violation subject to an additional fine or other sanction.
Fireworks and Open Fires	Fireworks or any open fire, including a campfire	\$500 - \$1,500 per incident	If warranted, cases will be forwarded to the El Paso County Fire Marshal for prosecution.
<u>Failure to provide forest inspection documentation</u>	<u>Failure to provide written confirmation of a forest inspection in accordance with Section 6.3.</u>	<u>\$500 per year</u>	<u>Does not apply to property owners who participate in Bent Tree-wide forest inspections.</u>
Diseased or Dead Trees not removed	Dead or diseased trees not removed	\$500 per tree and referred to the U.S. Forest Service	Dead and diseased trees that are deemed by the <u>ACC, CCC, or FMC</u> to be a nuisance, fire hazard and/or a danger to living trees in spreading parasites/disease.
Unkempt Lots, Debris	Slash, scattered firewood, down trees, visible trash containers, unsightly trash, bright colored tarps, construction materials, toys, sports equipment	\$50 - \$150 per item	Each day that a violation remains uncorrected may be considered a new violation subject to an additional fine or other sanction.
Nuisances	Includes: Excessive noise; use of all terrain vehicles, dirt bikes, motorcycles, or go-carts; garage bands; operating lawn and landscape equipment after 9 p.m.	\$150 - \$1,000 per incident	

Offense	Example Violation	Fines	Comments
Excessive irrigated area	Irrigated area exceeds 2,000 sq. ft.	\$500 per month for failure to install two externally readable water meters; one measuring total water use and one measuring water used for irrigation	Meter readings must be reported as requested by the Board or its designees.
Excessive water use	Annual water meter reading indicates water usage in excess of yearly allocated amount of 124,800 gallons in total including 22,435 gallons for irrigation.	\$0.05 per gallon for each gallon of usage exceeding either of the limits.	For each subsequent consecutive violation, the per-gallon fine rate will be doubled from the prior rate.
Failure to report water use	Failure to report water use as required by the Board or its designees.	\$500 per failure to report water use as required by the Board or its designees.	An additional \$500 fine will apply every 90 days that adequate reports are not submitted. The adequacy and timeliness of reports shall be determined by the Board or its designees.
Failure to submit map or schedule of irrigated area	Failure to submit an acceptable map or sprinkler head schedule of irrigated area	\$100 per year for failure to submit acceptable map or schedule	Acceptability of map or schedule is determined by the Water Augmentation Committee. For each subsequent consecutive violation, the yearly fine will be doubled from the prior fine.
Architectural Control Violation including Unauthorized Tree Cutting and Unauthorized Signage	Items not in compliance and/or not approved by the ACC	\$300 per violation	These offenses are addressed by the ACC, not the BTPOA Board.

Notes: This table provides examples of common violations and associated fine structure. Covenant enforcement and fines for violations are not limited to this table. More egregious and recurring violations may, at the Board’s sole discretion, receive fines toward the upper end of the specified ranges. The BTPOA may enforce all covenants including fines similar to those in this table, whether or not the offense is specifically listed in this table. As specified in 5.2.2.8, in addition to fines, the BTPOA may also assess and recover its expenses, including that of reimbursement for staff, consultant, or subcontractor time and expenses as well as attorney fees and costs against the property owner, alleged violator and/or other party.

Appendix C:
Bent Tree Property Owners' Association Certification of Tree Removal Form

Property Address and Lot Number: _____

Reason for Tree Removal: _____

Number of Trees Removed: _____ Date Trees Removed: _____

Who Removed the Trees: _____

Contact Information for Person Who Removed the Trees: _____

Description/Drawing of Approximate Location(s) of Trees Removed:

I certify that the above information is accurate to the best of my knowledge and agree that I will be responsible for any and all damages, penalties and costs incurred by the Association arising in connection with this tree removal, including attorney fees, and I shall be subject to all enforcement procedures available to the Association through its governing documents and/or Colorado law. _____ (initial)

Signature of Property Owner(s): _____ Date: _____

Printed Name of Property Owner(s): _____

Phone Number(s): _____ Email: _____

Summary of Comments and Responses regarding Draft and Revised Draft BTPOA Rules and Regulations Version 9

January 10, 2012

Acronyms: CSFS = Colorado State Forest Service, FMC = Forest Management Committee, WAC = Water Augmentation Committee

Section	Commenter	Date	Comment	Response/Resolution
4.6 Vehicle Parking	Various	9/15/2011	As is done in nearby subdivisions, vehicle parking covenant enforcement should be handled based on complaints rather than using tours.	Relying on complaints as a method of enforcing the covenants has a significant problem in that the alleged violator often has a pretty good idea who lodged the complaint and may try to intimidate the neighbors or retaliate in one way or another. Another issue with complaint-based enforcement is that those cited with violations will claim discrimination since others with similar behavior are not cited if their neighbors do not complain. Complaint-based enforcement may also lead purchasers to assume that the covenants are not being enforced since they may see numerous covenant violations throughout the subdivision. Based on these considerations, the board decided to continue using tours of the subdivision to address covenant issues in a uniform and equitable manner.
	Nancy Krause	9/23/2011	With complaint-based vehicle parking covenant enforcement, we might as well have no rules and duke it out in our cul-de-sacs. What would be the advantage to that proposal other than for those who would love to bully and intimidate their neighbors?	
4.6.2.6 Overnight Visitors	Various	9/15/2011 and 11/15/2011	Special situations arise in which extra vehicles must be parked on properties for more than two weeks. Removing the possibility of the board granting variances to the parking covenant eliminates needed flexibility to accommodate situations such as caregivers, hospice workers, and college students home for the summer.	The potential of the board granting variances to the parking covenant raises numerous issues including: <ul style="list-style-type: none"> • 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 email 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

Section	Commenter	Date	Comment	Response/Resolution
				<p>ensure that purchasers of property in Bent Tree are aware that the parking variance procedure exists?</p> <ul style="list-style-type: none"> 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. <p>Based on these concerns, the board decided to eliminate the sentence that suggested that vehicle parking covenant variances might be granted.</p>
4.9 Dead and Diseased Trees	See 6.3 below.	See 6.3 below.	See 6.3 below.	See 6.3 below.
4.10 Animals	Lance Dodd	9/11/2011	What is the purpose of the reference to the county leash law?	The intention of the reference was to define the term “control;” however, the reference raised more issues than it resolved. As a result, the reference to the county leash law has been removed. The requirement is that dogs must be kept under control. Whether a dog was under control or not will be determined on a case-by-case basis. Barking dogs are considered a nuisance covered by Section 14 (15 for Bent Tree IV and V) of the covenants.
6.2 Reporting Needed for Water Augmentation Plan	Various	9/15/2011	Those property owners who have no changes in irrigated area and anticipate no changes in irrigated area should not have to send in the yellow card each year.	<p>The Rules and Regulations require that property owners respond when the WAC requests information.</p> <p>Based on the comment, the WAC may adjust when it requests information and what information it requests.</p>
6.3 Forest Management and 4.9 Dead and Diseased Trees	Elizabeth Woish	9/21/2011	These additional rules are unnecessary since the local forest is healthy. The board and FMC are not qualified to determine who has adequate training and experience to conduct forestry inspections nor to evaluate the results of those inspections. Requiring property owners to hire outside contractors goes beyond what is supported by the covenants.	<ul style="list-style-type: none"> There have been recent incidents where Mountain Pine Beetle killed a significant number of nearby trees. Section 10 (11 for BT IV and V) of the covenants says “Owners are responsible for prompt treatment or removal of trees infected by pine beetle or other insects which can kill trees within a year and might spread to adjacent trees and lots, and to reasonably contain any trees with slow parasitic growth such as mistletoe.” Inspections are necessary to confirm that owners are complying with this section. That is why the board approved Bent Tree-wide inspections by the CSFS. For those lots where permission cannot be obtained for the CSFS inspection, some credible evidence of forest inspection is needed to ensure that all property owners are complying with the covenants. The board decided to require that those who do not permit inspection of their property as part of Bent Tree-wide inspections must “supply the FMC with written confirmation from the Colorado State Forest Service or personnel with equivalent forest inspection experience that their property has been inspected and the outcome of that inspection. This offers the possibility that property owners could self-inspect provided they can demonstrate adequate forest inspection training and/or experience.”

Section	Commenter	Date	Comment	Response/Resolution
6.3 Forest Management and 4.9 Dead and Diseased Trees	Paul Young	10/11/2011	The requirement to remove dead and diseased trees by June 1 st goes beyond what the covenants require.	The authority comes from Section 10 (11 for BT IV and V) of the covenants that says “Owners are responsible for prompt treatment or removal of trees infected by pine beetle or other insects which can kill trees within a year and might spread to adjacent trees and lots, and to reasonably contain any trees with slow parasitic growth such as mistletoe.” The wording in Rules and Regulations Section 4.9.3 applies that authority by saying “Owners are responsible for the prompt removal of diseased, dead, or downed trees that are deemed by the CCC or the FMC to be a hazard, a nuisance, or unsightly.” The CSFS recommends June 1 st as an appropriate deadline for removal of beetle-infested trees.
6.3 Forest Management and 4.9 Dead and Diseased Trees	Paul Young	10/11/2011	The proposed rule requires homeowners to comply by May 1 st every year, but only requires the BTPOA to arrange for “periodic” inspections. In the event the FMC is unable to arrange for an inspection each year or is unable to complete this before May 1, you have created liability on the FMC and the BTPOA that homeowners can seek to recover.	Based on your comment, the wording in Section 6.3 has been revised in part as follows: “To insure that the health of the forest throughout Bent Tree is being maintained, the FMC may arrange for periodic forest inspections at no additional cost to property owners. In order to conduct those inspections, the FMC may request permission from property owners for access to their properties. When the FMC requests permission by April 1, then by May 1, property owners who do not respond to the FMC’s request for access or who deny access to their properties, must supply the FMC with written confirmation from the Colorado State Forest Service or personnel with equivalent forest inspection experience that their property has been inspected and the outcome of that inspection.” This wording makes the May 1 st deadline dependent on the FMC making the request by April 1 st . The intention with the revised wording is that in the event the FMC does not arrange for Bent Tree-wide inspections, then there is no requirement for property owners to provide evidence that their properties have been inspected.
6.3 Forest Management and 4.9 Dead and Diseased Trees	Paul Young	10/11/2011	There is no definition of who will perform the inspection, so in the event the Forestry Service is unwilling to provide the service in the future, the forest inspection could be performed by someone with a conflict of interest in potential revenue from the tree removal. There is no definition of the acceptable skills, qualifications, or groups the FMC can contract with. In fact, the FMC is free to use untrained people. This creates the risk of homeowners claiming incompetence; either in not finding infected trees or forcing trees to be removed that do not need to be.	Although the current wording does not require that the Bent Tree-wide inspection is conducted by the CSFS, it is anticipated that the CSFS or personnel with equivalent forest inspection experience would be used by the FMC since that is the requirement with regard to those who do not give permission for their properties to be inspected as part of the Bent Tree-wide inspection. It is anticipated that avoiding potential conflicts of interest of the sort you describe would one of the factors to be considered in selecting the organization to conduct the Bent Tree-wide inspections. Another factor would be the competence of the selected organization to recognize diseased and healthy trees. The liability issue you raised regarding incompetence on the part of the inspector or inspectors selected by the FMC should be addressed as part of the inspection permission form. Elaboration of these aspects of how the FMC selects personnel to conduct the Bent Tree-wide inspections should be considered for future inclusion in the Rules and Regulations.

Section	Commenter	Date	Comment	Response/Resolution
6.3 Forest Management and 4.9 Dead and Diseased Trees	Paul Young	10/11/2011 and 11/14/2011	I can find no professional qualification for “trained forestry professionals” in the US that is recognized by the law in the same way a “trained psychology professional” or a “trained legal professional” is recognized. Canada does have a government body that certifies “trained forestry professionals” in Canada, but there is no such process or legal definition in the US.	As a result of your comment, the use of the phrase “trained forestry professional” has been replaced with “Colorado State Forest Service or personnel with equivalent forest inspection experience.”
6.3 Forest Management and 4.9 Dead and Diseased Trees	Paul Young	10/11/2011 and 11/14/2011	The covenants do not give the board the right to force homeowners to employ a third party to meet covenant requirements. The covenants specifically allow the board to raise dues, issue fines, and incur costs to remedy covenant violations that can then be recovered from the homeowner or liened against their property. There is no allowance in the covenants for the board to force homeowners to employ third parties.	<p>Property owners are given a choice. Only those property owners who do not grant permission to inspect their properties are required to provide evidence that their properties have been inspected. This is needed to ensure compliance with Section 10 (11 for BT IV and V) of the covenants, which says in part “Owners are responsible for prompt treatment or removal of trees infected by pine beetle or other insects which can kill trees within a year and might spread to adjacent trees and lots, and to reasonably contain any trees with slow parasitic growth such as mistletoe.”</p> <p>The reworded rule allows that the evidence could be obtained from the CSFS or personnel with equivalent forest inspection experience and offers the possibility that property owners could self-inspect provided they can demonstrate adequate forest inspection training and/or experience.</p>