

Minutes: BBHOA Board of Directors Meeting
Tuesday, May 24, 2016
12:00PM

Board President Palmer Williams called the meeting to order at 12:10pm. In attendance were President Palmer Williams, Secretary Janet Ferris, Vice President Dan Thompson, Treasurer Jim Eaton, and Board Member Dale Elrod. Homeowners Vivien Szu-Tu and Mitch Covington were also present. Attorney Kristin Gardner was present at the President's request.

The primary matter to be discussed was revitalization of the Bobbin Brook restrictive covenants. Palmer stated that he became aware of the covenant revitalization issue last December due to an inquiry by some Bobbin Brook homeowners who read an article written by attorney Kristin Gardner in the Tallahassee Democrat.

Palmer then asked Ms. Gardner to provide an overview of covenant revitalization. Ms. Gardner explained that there is a provision in Florida's Marketable Record Title Act that would result in the extinguishing of covenants for each lot due to the passage of time. Although it is possible that individual homeowners may have revitalized covenants due to the manner in which the covenants were referenced in their deeds, most deeds will not correctly cite the original covenants specifically enough to constitute an individual revitalization. However, partial revitalization would lead to a chaotic result (i.e., some lots would be subject to the covenants when others would not), so the process to revitalize all of them is necessary. Revitalization is essential to maintaining the restrictions that apply to all homeowners in Bobbin Brook.

Ms. Gardner stressed that the statutory process must be followed precisely. She has represented subdivisions in revitalizations of covenants many times, and understands what the State will require in terms of appropriate documentation. Generally, the process includes a mailing to every lot owner, explaining in layman's terms what revitalization is and why it is important. The mailing should include a copy of the covenants. Lot owners should then sign a document consenting to the revitalization, but only 51% of lot owners must sign and return the agreements for the revitalization to succeed.

Ms. Gardner stressed that the goal is to reenact the original covenants, so that there are no disputes that would disrupt the process. The reenactment of the original covenants, in their original form, is a priority, since the State can deny the revitalization for many reasons and covenant changes can be one of those reasons. The initial letter to homeowners, drafted by Ms. Gardner, was discussed, and some changes were suggested. It was agreed that a copy of the covenants will be included in the mailing, along with the consent form. A majority of Bobbin Brook lot owners is all that is required, but all parties on the deed must sign the consent. Dan

Thompson agreed to provide specific language for the letter stressing that changes to the covenants will not be made.

Regarding the timing of the mailings, the Board discussed a starting date for the initial mailing of June 6th. The Annual Bobbin Brook Homeowners' Meeting is planned for August 14, 2016, and consent forms will be due August 10th. If a sufficient number of consent forms have not been returned by the due date, Ms. Gardner stated that the date can be extended without any difficulty. The Board thanked Ms. Gardner for her presentation, and she left the meeting at 12:50p.m.

After Ms. Gardner departed, the Board discussed officially hiring Ms. Gardner to manage the covenant revitalization process on behalf of Bobbin Brook. The Board voted to retain Ms. Gardner for that purpose.

The final matter to be discussed was the recent letter from homeowner Mitch Covington to the Board regarding Bobbin Brook's abandonment of the easement across his property, which was done several years ago. Mr. Covington was concerned about a letter from attorney J. D. Durant providing Mr. Durant's opinion that the prior Board did not have the authority to abandon the easement. Mr. Covington stated that he had purchased the property based on the assurance from the Board that the easement had been abandoned, and expressed concern about Mr. Durant's opinion. Jim Eaton, who was on the Board of Directors at the time the abandonment was agreed to, said that the Board sought legal advice from an experienced real property law firm regarding whether it could abandon the easement. The Board was told that it could abandon the easement, and it did so. The abandonment is still recorded in the property records, notwithstanding the opinions of various attorneys regarding the viability of the abandonment.

After a lengthy discussion, the consensus of the Board is that the extensive engineering project paid for and managed by Bobbin Brook on Moonseed Court and Bobbin Brook Circle fully addressed any drainage issues by routing water along the road easements to the Derosier easement. The easement that was the subject of the abandonment was not used, and was not needed, to properly adopt the engineer's recommendation for an effective drainage system from Moonseed Court to Bobbin Brook Circle. The Board therefore concluded that it will not contest the legality of the abandonment. The Bobbin Brook road easement on Moonseed Court and Bobbin Brook Circle is still in effect and was utilized in the recent drainage work.

The Meeting was adjourned at 1:20pm.