

**Bellevue Acres Homeowners Association
Special Meeting Minutes
March 28, 2017**

Attendance

See sign-in list. 31 homeowners were represented, either in person or by proxy. Meeting was at the Waterstone Church.

Call to Order

Roger called the meeting to order at 7:00 pm. Note: The meeting was noticed to all homeowners on March 18th, which met the 10-day prior notification requirement of our Bylaws.

Meeting Agenda (attached)

Overview of Issues

- **Financial Accounting for Trash Service.** Michelle Winn presented a 10-year history of HOA revenue and expenses, which included revenue collected for, and expenses paid to, trash service. In some years, trash service net income was positive and in some years, negative. Over the past 10 years, total net income was a positive \$6,426. All of this was rolled into the general operating fund for the benefit of all HOA members. Because of this, the HOA was able to contribute \$6,000 to the fence fund, while holding HOA dues and trash fees constant for many years, at rates well below HOA dues charged by other communities and below trash fees charged without HOA discounts. Michelle also pointed out that the trash service is a “voluntary” service offered to HOA members. Because of its low cost, all HOA have been participating for at least 10 years. Consequently, and to avoid confusion in the future, the HOA Board is considering amending our Bylaws to include trash service as a required HOA function, and that future HOA dues be revised to include trash service fees.

- **ACC Approval of Howell’s Shed Location.** Jo Mayers presented the logic behind the ACC’s approval of the existing shed location. She explained that the ACC considered the rear dimension of the primary residence visible from the street to be the back line of the home, extended to the property line. The shed as it was proposed, lies behind this line. Jo indicated that this interpretation was consistent with the ACC’s evaluation of other shed locations. She also indicated that members of the ACC inspected the property prior to approving the application, and after the shed was installed to assure the installed location matched the approved location. However, in the Howell’s case, Jo explained that the orientation of the primary residence was skew to the street, such that an extension of the rear line of the home placed the shed closer to the street than it would have otherwise been had the rear line of the home been parallel to the street. In addition, the ACC did not assess the shed’s location relative to adjacent or neighboring properties. This was because these properties were not shown on

the application, nor were they required to be shown on the application. The ACC has since revised the ACC application form to require a “bird’s eye view” of neighboring properties relative to proposed landscape improvements, which may include a detached structure.

- **Board’s Decision to Relocate the Shed.** Bert Milano presented the decision process the Board underwent to request the Howell’s to relocate their shed further back on their property, at HOA expense. He discussed the Board’s fact-gathering process that included 1) listening to community members express their support for, and resistance to, the HOA paying for relocating the shed, 2) potential impacts to property values by not relocating the shed, 3) potential negative precedence the relocation would create by reversing an ACC decision that had been made using “reasonable judgement”, then having the HOA pay for a corrective measure, 4) the cost of the relocation, and 5) the Board’s obligation to “...foster, enhance, and preserve a desirable, wholesome, safe, and *attractive* (emphasis added) neighborhood for the enjoyment and use of the resident homeowners and their families” (Article 2.2 of our Bylaws). After a long and arduous process of weighing the pros and cons, and with the Howell’s willingness to manage relocating the shed, the Board unanimously decided to have the shed relocated at the HOA’s expense of not to exceed \$3,500.

Going forward, Bert pointed out that the Board will be updating the Guidelines, Rules, and Regulations to:

- Clarify the intent of the fourth bullet of Amendment 1 to our 1979 Covenants and Restrictions, to remove ambiguity regarding the “dimension” behind which a detached structure should be located;
 - Increase the level of detail required on Landscaping Plans applications to require aerial views of the subject and adjacent properties, street views, and building profiles when an external improvement is proposed;
 - Require an ACC assessment of outlooks from adjacent or neighboring properties when evaluating ACC applications; and
 - Update our Guidelines, Rules and Regulation for consistency with recent changes to Colorado HOA statutes.
- **Open Discussion from HOA Members.** All homeowners were then invited to express their views on whether or not the HOA should pay for the relocation of the Howell’s shed. Each homeowner was limited to 3 minutes. Eleven members expressed their views in person, and two members expressed their views in letters that were read by attending members. The following summarizes opinions offered:
 - The shed should be relocated to the southeast corner of the Howell’s property because its current position 1) detracts from street-view appeal and property values of the immediate, adjacent and neighboring properties, 2) lies in front of the rear dimension of the primary residence

as defined by the furthest corner of the residence as viewed from the street, 3) when approving the shed's current location, the ACC did not consider the shed's aesthetics relative to adjacent or neighboring properties, 4) the cost of relocation would be a fraction of the diminished property values if the shed remains where it is, 5) funds are available without a special assessment, and 6) the Howells have offered to manage its relocation with no contract risk to the HOA.

- General HOA funds should only be used for operations and maintenance of the HOA, not for "special projects" such as this. Special projects like this should require review and approval from the entire HOA membership.
 - There is an apparent conflict of interest among several Board members with regards to their objectivity to represent the interests of the entire community. This apparent conflict was refuted by the identified Board members.
 - This issue has triggered petty and unacceptable behavior on the part of neighbors and needs to stop. Even though disagreement exists, reasonable people should be open to and respectful of and opposing viewpoints. There is no need to personally attack or undermine the integrity of fellow neighbors.
 - Board meeting minutes from more than 10 years ago stated that the Board should maintain an operating fund of \$10,000 and refund surplus funds to homeowners. Since then, the Board has grown this balance due to many hours of voluntary work and good financial planning. The Board believes the current net balance of \$15,248 (exclusive of \$3,961 fence funds that are not available, and the \$3,500 tentatively allocated for relocating the shed) is actually less than a reasonable operating fund balance, in today's dollars. As elected officials, the Board believes it has the discretion to increase or decrease the operating fund balance, as it believes is prudent, to meet its management obligations and fiduciary responsibilities as required by our Bylaws, Restrictive Covenants, and Guidelines, Rules, and Regulations.
 - Throughout the neighborhood, there are inconsistencies in the way the ACC is approving shed plans. This needs to be corrected and more transparent.
 - If the ACC erred in its approval of the Howell's shed in its current location, the HOA should be obligated to pay for its relocation.
 - Have an outside, independent contractor review our Guidelines, Rules, and Regulations for adequacy and consistency with current Colorado HOA statutes. Also have the contractor conduct and audit of our entire neighborhood for compliance with our covenants.
- **Informal Vote by HOA Members to Pay for Shed Relocation.** An informal vote was taken by all attending homeowners (one vote per home) and homeowners represented by proxy as to whether the HOA should pay up to \$3,500 to have the Howells relocate their shed to the southeast corner of their property, at a location approved by the ACC. Results were as follows:

- Supporting = 22 homes
- Opposed = 9 homes

- **Formal Revote by Board Members to Pay for Shed Relocation.** A motion was made to the Board and seconded to have the HOA pay up to \$3,500 to have Howells relocate their shed to the southeast corner of their property, at a location approved by the ACC. The motion passed unanimously.

Meeting Adjourned at 8:25 pm

Respectfully submitted,

Tim Shangraw