



**BRIGHTWATER**  
**HOMES ASSOCIATION**  
**LEAWOOD, KANSAS**

**Brightwater Homes Association Annual Meeting**  
**November 10, 2015**

**Minutes**

The Annual Meeting of the *Brightwater Homes Association* was held at the Leawood Baptist Church on November 10, 2015 at 7:00 p.m.

**Directors present:**

- Samantha St. Julian, Anne Ferrel, Will Palmer, Sharon Klose, Sharon Lockhart, Bob Waldinger, Janet Kelley

**Directors absent:**

- Jean Walsh, Matt Brummett

Members present:

- |                        |                     |                    |
|------------------------|---------------------|--------------------|
| • Michael Rice         | • Mike & Tammy Cook | • Terry Regan      |
| • Krista Graham        | • Danny Boresow     | • Bob Robles       |
| • Jack Buettner        | • Judy Raby         | • Mary Jo Bowman   |
| • Emily Miller         | • Mary Bessmer      | • Mary Horvatin    |
| • Mickey Waldinger     | • Lynne Sheek       | • Meryl Lin McKean |
| • Marge Brodtkin       | • Emily Lang        | • Susan Lytton     |
| • Martin & Rita Bryant | • Mary Beeler       |                    |
| • Bob Robles           |                     |                    |

**CALL TO ORDER**

The meeting was called to order at 7:00 pm by Samantha St. Julian, President, and all members were welcomed.

- It was announced that the meeting would be recorded.
- Introduction of all members present followed
- Thank yous to all who brought cookies to the meeting: Emily Miller, Sharon Klose, Sharon Lockhart, Janet Kelley

**INTRODUCTION OF 2015 BOARD MEMBERS**

Bob Waldinger, Janet Kelley, Will Palmer, Sharon Lockhart, Anne Ferrel, Sharon Klose, Samantha St. Julian. Jean Walsh & Matt Brummett were absent.

**UPDATE FROM OUT-GOING PRESIDENT**

As out-going President of the Board, Samantha made several announcements about how the HOA has been moved forward in the last 2 years:

- Parkway Trees:
  - 5 new trees installed, aimed at 11, utility lines in way
  - 6 more trees are paid for and waiting at Suburban Tree & Lawn for installation once the 6' Parkway allowance has been changed to allow for more plantings, keep the HA congruent with the governing documents.
- Financial Contract Negotiations:
  - Deffenbaugh – saved \$6,000+/year over the contract negotiated in 2013; contract renewable for 5 years, saving the HOA \$30,000+ over the term of the contract
- Delinquent Dues Collection:
  - All past dues collected except for one property in transition – 2040 W. 84<sup>th</sup> Terrace
  - AMOCO BP vacant lot not invoiced for 11 years – past dues & interest were collected (\$2300) & we established a relationship with them so we are clear where to send the invoice & data required on mailing label
    - This property as tested from the oil spill several years ago – ground is still toxic. Can't be used for residential or recreation. One of the lots is ours; the southern lot belongs to Leawood HOA.
- Past HOA Records:
  - All past records have been archived by year and category, creating ease of looking up past records.
- Balance in Checkbook:
  - When the 2013 Board took over, there was a balance of \$2300 in the checkbook. The outgoing Board leaves the HOA with a balance of \$10,000 – derived from Amoco BP dues & interest, Deffenbaugh contract, & KC Arborist contract.
- New Bylaws: The 2015 Board will present new Bylaws for vote tonight. These would bring our HOA compliant with Kansas law.

## **OPEN FORUM**

- Mary Bessmer: are we in arrears in planting new trees?
  - Answer: yes
  
- Mary Jo Bowman: why don't we just plant the Entrances, disregard asking the City of Leawood for approval of the plan?
  - Answer: perhaps our HOA would prefer to not get sideways with the City of Leawood. Maybe next year you can convince the Board to disregard that.

- Judy Raby: why do I need more trees in front of my house? I've already got one in front of my house.
  - Answer: Board Members drove through the HOA picking the barest Parkway areas, approached members, and asked if they wanted a tree. That's how we decided where to plant them.
- Krista Graham: I have area stills of the neighborhood from my drone. The images are file in our archived materials. She offered to check the gutters of our members – just call her.
- Sharon Lockhart: Toby Tobin says the Fall is the best time to plant trees. Carolyn Dean recommends Spring for Evergreens.
- Samantha shared an article on the advantages of trees:
  - Reduce utilities by 35% from their shade
  - One tree creates enough oxygen for 2 people for 1 year
  - Reduce storm water run-off & flooding
  - Mature trees can increase adjacent home values by \$13,000
  - Create homes for wild life.
- Judy Raby: Dues. Can we change the due date so it doesn't come at the same time as our Personal Property Taxes? I appreciate that they have not gone up past 2 years. Split the payments into two?
  - Samantha: The governing docs dictate when and how we must pay the dues.
  - A discussion ensued about dues, due date, rewriting Declaration, etc. Melanie Branham weighed in regarding changing the dues payment schedule without changing the Bylaws: *"If anyone in the community objected to the change it would create problems for the entire community – because you are community members, and as such you are jointly liable for any breeches like that. If someone sued the HOA each and every one of you in the HOA would be assessed those legal fees to defend that. Hopefully that would never happen, but I think there is one in every neighborhood – have you toe the line or prove a point. It's an easy thing to get all the Bylaws to comport with the law, but when they don't match, you have a pretty high liability issues. As far as I know you don't have errors and omissions insurance for your Board, and that would help limit it, but it could reach each and every home of the HOA if there was a law suit. It's best to limit your exposure to that kind of thing."*
  - Request for Melanie Branham, Legal Counsel in the house, re: cost of writing new Declaration: *"The Declaration was formed at the time your subdivision was formed with a Platte of your neighborhood. It's practically an indestructible document; it's very difficult to change it. It's doable, but it's like a Constitutional Amendment – there are lots of hoops to jump through, you have to have significant voter participation. The first stage is that you could appoint a committee to deal with it, that would limit your*

fees. The main thing would be that you get what you think is a suitable amended Declaration, you'd need to run that by an attorney that has real estate and zoning background to assure you still comport with state statute, since you got new statutory requirements just a couple of years ago, which is part of why the Bylaws need to be updated so that you're not hanging out there. The law would still apply, but if your Bylaws are correct it's not helpful when people look at the Bylaws – they think it says X when the law says Y. The same goes for your Declaration. You have some discriminatory pieces in there that need to come out. It would be a good idea to clean that document up. It is a major undertaking. To lay the groundwork to do that you need to do the Bylaws first, then you could move forward with the Declaration. Legal fees, a couple of consultations, reasonably a couple of \$1500 sessions in your legal budget. It's really about you all getting that together. All you really need from an attorney is to make sure it's within the parameters of what is acceptable with the County and State Regulations."

- Member: isn't it true that the other HOA's in Leawood haven't changed their Governing Documents? They are still operating under old one?
  - Samantha: I don't know; I've not researched that. Melanie Branham requested to speak, "I've worked with several HOA's in Johnson County & Leawood HOA – many of them have updated them. The statutes changed significantly in 2011. The City of Leawood has asked that all the HOA's update their papers. You're not on the leading edge to do this, but you're not at the tail end, either."
- Sharon Lockhart: It seems regardless of what our Bylaws say, we must operate under what the Kansas statutes say, so it would be helpful if we had those rules.

Emily Miller: Are all of these revised Bylaws necessary to meet the Kansas law?

Answer: Mary Horvatin: No, you need all of these. There are some defaults. More discussion followed regarding the Bylaws and Declaration, Voting, language in Declaration regarding liens.

Melanie comments: "If there is unequal enforcement of the rules it's a problem (re: dues split into 2 payments, etc.). Your neighborhood is a hotbed for this sort of action."

- Member: I'm concerned about the standards for keeping up the Entrances. What is my responsibility? I don't want to be held liable for replacing dead plants. Wouldn't bushes be better than roses, flowers?
  - Samantha: The 2016 Board will address this, there will be clear communication with Entrance Homeowners about what to expect.

## **ENTRANCE BEAUTIFICATION**

- Member: let's get on with it

- Samantha: we have 7 out of 11 permissions for Entrances. The 2016 Board will be responsible for taking up this issue. We have plenty of money to do this.
- Member: How many entrances are there? 11
- Next year's Board will manage the Entrances.
- Anne Ferrel: A sidewalk down State Line is being proposed. We need to see how that goes.
- Member: Could we do Annuals perhaps? Just so it's pretty part of the year?
- Member: Are the statues within the Easement so Leawood would have the rights to tear them out?
- Samantha: A statuary expert came out to look at our statues and gave them about 3-5 more years life expectancy.
- Member: The trees are in the Declaration, but there's nothing for the corners?
  - Samantha: HOA is responsible for public spaces. Guarantee that the stone pillars entrances are a good bet. One of the statues was replaced by homeowner this past year.

### **PARKWAY TREES**

Your 2015 Board has been mindful of the potential of the sidewalk on State Line so avoided planting there. The Tree Policy may need to be revisited.

Emalea Miller: What type of trees are you planting?

Answer: Sunset Maples – specifically chosen by homeowners, within Tree Policy options.

Danny Boresow: How much did these trees cost that you planted? Including guarantee? What happens if the homeowner doesn't water it?

Answer: \$339, and we got bids. It dies if not watered. We engaged the homeowners to water them before we planted them, so we're hopeful they will.

### **2016 PROPOSED BUDGET**

No Member discussion.

Moved & seconded that we accept the Budget. Passed.

### **PROPOSED BYLAWS**

Lynn Sheek sent two corrections via email prior to the meeting. Both were addressed. Ballot for votes on Bylaws. 3 volunteers chosen to count the ballots: Anne Ferrel, Tammy Cook, Mickey Waldinger

The Proposed Bylaws failed to pass. The 2016 Board will need to take up the task of presenting acceptable Bylaws to the Brightwater community.

### **NOMINATION OF 2016 BOARD OF DIRECTORS**

No member was willing to accept a nomination for office. It was agreed that the Board Members would be selected without office. The following nominations were accepted:

- Sharon Klose
- Mary Jo Bowman

- Emily Miller
- Sharon Lockhart
- Susan Lytton
- Anne Ferrel
- Will Palmer
- Mary Horvatin
- Mary Bessmer

Given that only 9 nominations were made, they were accepted as new Board Members unanimously without a vote.

The 2016 Board was invited to take the Board table with the dismissal of the 2015 Board. Anne was temporarily placed in charge until Officers were selected by the Directors.

**MEETING ADJOURNED at 8:30 pm.**

**POST ADJOURNMENT**

The 2015 Board decided to offer a Door Prize at the Annual Meeting in the value of one 2016 property Annual Dues (\$250). Mary Horvatin won the door prize.

After the close of the meeting, the 2016 Directors chose officers:

- President – Sharon Lockhart
- Vice President – Will Palmer
- Secretary – Susan Lytton
- Treasurer – Anne Ferrel
- Director – Sharon Klose
- Director – Emily Miller
- Director – Mary Horvatin
- Director – Mary Bessmer
- Director – Mary Jo Bowman

A few days after the meeting Susan Lytton gave her resignation as Secretary of the Board.

Respectfully submitted,

Samantha St. Julian,  
HOA President 2014-2015