

MINUTES

HEIGHTS OF BEACON HILL

LOWER ALLEN TOWNSHIP

PUBLIC MEETING

JUNE 8, 2017

The following were in ATTENDANCE:

BOARD OF COMMISSIONERS

H. Edward Black, President
Richard F. Schin

TOWNSHIP STAFF

Thomas G. Vernau Jr., Township Manager
Daniel Flint, Township Engineer
Steven P. Miner, Solicitor
Julie Echterling, Recording Secretary

Mr. Vernau called the June 8, 2017 Public Meeting to order at 6:00 pm. He stated he would go over a slide presentation. If anyone in attendance would like a copy, he asked them to put their name and address (email/mailling) and he will send a copy.

He introduced slide one as An aerial photo of the Heights of Beacon Hill. He stated the areas outlined in orange are the 13 acres of common space and spoke about them. He stated the maintenance for these acres has been done by the developer, BBH partners. The general partner went into bankruptcy and the partnership will dissolve. Currently, the open spaces are owned by the partnership. This meeting is to discuss options. He asked the Township's Solicitor Steve Miner to discuss the next slides.

Solicitor Miner spoke about the following facts from the slide presentation:

- Heights of Beacon Hill is governed by:
 - Pennsylvania Uniform Planned Community Act, Declarations of the Heights of Beacon Hill, Public Offering Statement and the Bylaws of the Heights of Beacon Hill.
- BHH Partners originally purchased, subdivided, and developed the Heights of Beacon Hill, a planned residential development comprised of more than 160 residential units in three phases.
- The Original Declaration was recorded in the Office of the Recorder of Deeds of Cumberland County on June 23, 1986.
- Declarations for additional phases were recorded in the Office of the Recorder of Deeds of Cumberland County on May 24, 2001.
- BHH holds title to the Common Open Spaces for the Heights of Beacon Hill, a planned community under the Uniformed Planned Community Act.
- The "Homeowners Association" was incorporated in 2006 under Pennsylvania's Department of State. After the sale of the last unit, Beacon Hill Partners was to transfer the Common Open Spaces and the Homeowners Association to the residents. This has not occurred.
- Haubert Homes filed bankruptcy on August 3, 2015, and as a matter of law, as general partner for BHH Partners, caused the dissolution of BHHP. He stated Mr. Haubert did some maintenance, which has ceased.

Question: *Were homeowners required to receive a copy of the conveyance and sign them upon purchasing a home? If so they didn't receive or signed them during closing.*

Answer: Solicitor Miner stated it is a requirement, the deeds contain a subject to the clause, and their declaration is signed and recorded with the deed. He can't attest to what happen at their closing.

Solicitor Miner spoke about the following from slide three:

The Home Owners Association

- The Heights of Beacon Hill Planned Community Homeowners Association ("HOA") is a nonprofit corporation organized under the Non-Profit Business Corporation Law of Pennsylvania.
- The HOA is formed with the first conveyance of property from the declarant to a Unit Owner.
- The acceptance of a deed constitutes an agreement that the provisions of the Act, the Declaration and Bylaws, the Rules and Regulations and the covenants, conditions, restrictions set forth in the deed to such Unit are accepted and ratified by each grantee.
- Each Unit Owner is a member of the HOA. Each Unit has one vote.
- The Bylaws are the governing documents setting forth the method of management of the planned community. This can be amended as time goes by.
- The Bylaws provide the procedure for terminating the Association.
- If the Unit Owners vote to terminate the HOA, pursuant to the UPCA, title to the real estate vests in the homeowners as tenants in common.
- Termination requires 80% of the unit owner's votes.
- The Association shall be responsible for maintenance, repair, improvements, administration and regulation of the Common Areas. This would include snow removal.
- Special assessments by Lower Allen Township for maintenance is not an option, because under the UPCA, the Common Open Spaces are exempt from taxation and special assessments.
- Meetings would be held with public notification.

Question: *Will the partnership liquidate the common space land if so what would they sell?*

Answer: Solicitor Miner stated the land will not be liquidated and is handled differently than other bankruptcies. He explained how the open space was deeded and was not subject to liquidation.

Question: *What about the drainage with the basin? Did they stop maintaining this? How much is the security?*

Answer: Mr. Flint spoke about the financial securities the Township is holding for the development which allows the Township to finish work not completed by the developer. He stated the monies are for the development of the basins not for the maintenance of the basin. He spoke about working with the County and permitting of the basin. He stated they are allowing the temporary basins as permanent. The basin has been working well for 10 years. Mr. Vernau stated there is no actual money, but rather a letter of credit.

Question: *Will the basin need to be maintained and how often? It seems to have been done recently.*

Answer: Mr. Flint stated it doesn't have to be done every year. He isn't sure who has cleaned them recently.

Answer/Comments: Solicitor Miner stated the formula for turning over the HOA is 75% of the lots sold, which was achieved in 2006. The HOA should have started in 2006 with the homeowners being the officers for it versus the partnership

Question: *What are the requirements for the basin based on the permitting?*

Answer: Mr. Flint stated they need to be kept in operational condition. General maintenance and inspections are required. He stated there are maintenance agreements with the Township for keeping it in operational condition.

Question: *What about the pumping station?*

Answer: Mr. Vernau stated it is owned by the Authority.

Question: *How do we gain the ownership of the open space?*

Answer: Solicitor Miner stated BHH's lawyer (Mr. Dzurainin) is willing to do the conveyance so the ownership can be given to the HOA from the partnership. He has been working with their lawyer.

Question: *I have tried to work with their lawyer and get the HOA turned over and haven't been able to do this.*

Answer: Solicitor Miner has been frustrated in this process also. He has spoken with their lawyer in the past two days and doesn't see why it can't happen. Mr. Vernau stated this process is moving forward.

Question: *This was supposed to have been handed over 11 years ago, why didn't the Township step in and do something?*

Answer: Solicitor Miner stated this is a private contract between the partnership and HOA. The Township doesn't have any legal right to interfere or force the contract. The Township can't hold the common space and isn't taxable. Mr. Vernau stated the declarations were included in the deed. He pulled out sections of the declaration that are in the presentation. This declaration stated it is part of the HOA. It was supposed to be part of the closing and the deed.

Question: *Will the HOA own the vacant lots also?*

Answer: Solicitor Miner stated no. Some of the lots are being sold as part of the bankruptcy.

Question: *How do we get these documents?*

Answer: Solicitor Miner stated they are public record at the court house. As a HOA, you are supposed to have resale certificates and should be disclosed at sale. Without a functioning HOA, you couldn't get a resale certificate. It is in your deed.

Question: *Is there bond with BHH? How much is the bond? Who decides what the bond is used or and does it include sidewalks?*

Answer: Mr. Flint stated there is a letter of credit for improvements. He isn't sure but thinks it could be around \$5000-\$6000.

Question: *What percent of owners need to agree to have the HOA? He thinks an HOA must be in existence and operating to accept the conveyance.*

Question: *He is in the middle of purchasing a home and what if I chose not to be a part of the association?*

Answer: Mr. Vernau stated the HOA exists. He stated if 80% vote to not be part of the HOA the land becomes common land. It may not be an issue with volunteers taking care of the maintenance, but it doesn't address the issue of liability for the homeowners. He stated in 10 years the storm basins may need work and if there isn't a pot of money from the homeowners, it could cause issues. Also, without liability insurance, if someone hurts themselves on the open space, all the homeowners are liable. Secondly, the property would not come to the Township. Someone asked if they could get seed money from the partnership to help the HOA, but they declined to pay anything besides attorney's fees. He stated we need to be moving forward. The HOA is created and officers need to be established, fees set and start operating as a HOA. It is an unfortunate situation but the reality is if you bought the property you signed the documents for the HOA.

Question: *Does the property (Common space) meet the PRD and meet the ordinances of the Township.*

Answer: Mr. Flint stated the financial security will take care of the unfinished work.

Question: *If we put \$50 a month for a year we could have \$54,000 to help. He asked about the bridge over the creek, does the HOA own it.*

Answer: Mr. Flint stated the bridge is owned by the County.

Question: *Who is responsible for the lamp posts?*

Answer: Mr. Flint stated they are owned by PPL on the public streets.

Question: *What can we do to get the HOA, liability insurance and get the maintenance started? What can the Township do to help in this process?*

Answer: Solicitor Miner stated you need to get a Board and officers. Then they can interact with BHH and set the assessments. Liability insurance maybe the first thing you may want to get to protect the HOA and homeowners. Mr. Vernau stated the Township is trying to help in the process by having this meeting, paying for the Solicitor's research, sending out letters, and are willing to have the Solicitor continue in this process.

Question: *Will there be a public meeting on this?*

Answer: Solicitor Miner stated Mr. Dzurainin has the address of every property and will facilitate the public meeting. Public notice and letters are required for the meeting and will be sent by Mr. Dzurainin. Mr. Vernau stated there are two steps to move forward. One is to get volunteers to serve on the Board and second is to figure out a budget.

Question: *Since there was money put away with each sale of the lot, could there be seed money that has been sitting around that we could get?*

Answer: Mr. Vernau there is no money sitting around. It was spent on maintaining the open space all these years. Solicitor Miner stated the partnership will probably not contribute it.

Question: *Could the by-laws be provided by the Township?*

Answer: Solicitor Miner stated they are not public so he isn't sure he has the most accurate set. He can reach out to Mr. Dzurainin and ask for them.

Question: *How many would want to establish the HOA with an informal vote? The majority of the room raised in their hand. He asked who would be a volunteer for the Board.*

Answer: Mr. Vernau stated if anyone is willing to be a volunteer to stay after the meeting and talk to him so he can get their information.

Question: *Can you put the information on the website?*

Answer: Mr. Vernau stated yes, he can put it on the website.

Question: *Silent partner received money after each sale of lot and wouldn't have put seed money in for the HOA?*

Answer: Mr. Vernau stated at closing, they should have collected two months of assessments. However, the monies would have been spent by now. He stated you can approach the partners, but they have already stated they will only pay for the lawyer's fees.

Question: *What about the sidewalks in the cul da sac?*

Answer: Mr. Vernau stated they will be finished, as we are holding the security. He spoke about the current issues with two owners and pending the outcome of the legal issues, they may pull the security and finish the work.

Question: *Will the storm drains be brought up to par before the change? What is normal maintenance?*
Answer: Mr. Flint spoke about the recent work done. He stated the property owner is responsible for the inspections. Mr. Vernau stated the Township has an ordinance about grass and weeds.

Question/Comment: *Been part of a HOA before, but believes we need to get a list of what needs to be done and costs associated with them, how much the liability insurance and anything else. She wanted to see if we could get these costs before the next meeting.*

Answer: Mr. Vernau stated they should ask the developer the costs and the Board will establish these costs. The Township plows dedicated streets. Mr. Flint stated Phase One and Two have their streets dedicated and is in the process of working on dedicating Phase Three streets.

Question: *Would it be possible to select 5 people tonight to come up with a plan? Is there any reason not to elect them?*

Answer: Mr. Vernau stated they can get a list of volunteers tonight and see him after.

Question: *Can we hire a management group to take care of the maintenance?*

Answer: Mr. Vernau stated yes, the HOA can do this.

SUMMARY

Mr. Vernau stated the following are the next steps:

1. He is going to talk to anyone who wants to volunteer to help with HOA.
2. Everyone will receive a legal notice by letter of the next meeting (from Mr. Dzurainin).
3. The Township can help with another meeting but it needs to include everyone/majority.

The residents thanked the Township for organizing this meeting and working with them on resolving this issue.

ADJOURN

The Meeting adjourned at 7:30 pm.