

Taberna Homeowners Association
Board of Directors Meeting Minutes
August 9, 2004

Attendees:

Larry Alderson
John Galvanek
John Murphy

Marcia Crawford
Esther Hardin
Joan Peacock

Agenda Items

New Bern 300th Anniversary Celebration – item tabled because Susan Moffitt was not at the meeting to address the Board

Treasurer's Report:

John Galvanek reviewed the second quarter 2004 budget. He presented the Board with the Cash Flow report and Balance Sheet as compiled by Mona Kay Sadler, our accountant. The financial reports are available to any homeowner upon request.

There was a brief discussion about the HOA dues for 2005. John Galvanek and the Finance committee will be reviewing the dues issue.

John Galvanek sent letters to those property owners who have not paid their 2004 HOA dues. The letter advises the owner that a lien will be placed on their property if payment is not received by September 1, 2004.

One of the owners listed has sold the lot and does not know who the new owners are.

There was a discussion on the handling of the reserve monies (\$25,000). A motion was made, seconded and passed to put the reserve monies into a BB&T Treasury CD that has a variable rate and 6 month term.

Fortuitous Legislation:

John Murphy provided the Board with a recent North Carolina Legislature change of the Planned Community Act. The change now allows Home Owner Association to levy fines for violations of its covenants. John Murphy did prepare an article for the Taberna Tribune on this update. Discussion on how Taberna will implement their violation procedures was tabled until Bill Rounds returns.

New Business

Abbingon Woods residents will meet at 7p on August 18th at the Creekside Park pavillon.

The Buildings and Grounds committee will address all mowing contracts and issues.

There was a discussion on above ground swimming pools and wading pools. There are some issues arising about what is considered a wading pool. There appears to be a need to further clarify what constitutes a wading pool.

A suggestion was made to hire a "Continuity Person" who could be a non-Taberna resident. This person would ensure that the HOA Board would transition smoothly each year as board members are replaced. Suggestion tabled.

The Nominating committee status is still pending. An update may be provided at the next Board meeting.

A motion was made, seconded and passed to approve the minutes from the July 6th Board meeting.

The next HOA Board meeting will be held on Monday, September 13, 2004 at 4p at the HOA Office.

Motion to place liens on the Taberna property of the following residents:

Steve&Amy Nelson, 106 Walden Road—Lot 242

Joyce Simmons, 203 Baden Court—Lot 160B

George Ramsey, 111 Boleyn Loop—Lot BC09

Brenda Postma, Lot 110

HOWARD, STALLINGS, FROM & HUTSON, P.A.

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August 3, 2004

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Mr. William Rounds, President
Taberna Master Homeowners' Association, Inc.
1005 Taberna Circle
New Bern, NC 28562

RE: Ability to Fine

Dear Bill:

I wanted to make you aware of recent legislation which gives to the Taberna Homeowners' Association the ability to fine for violations of the covenants. As you may know, it had previously been believed that the Planned Community Act in North Carolina granted associations that authority in 1999. However, a court ruling by the North Carolina courts on a specific case about a year ago made the finding that the Planned Community Act did not give the authority to fine in subdivisions created prior to 1999 unless the restrictive covenants expressly provided for that authority.

Now, the legislature has seen fit to make some changes to clarify the Planned Community Act with regards to those authorities which will apply to all planned communities, even if created prior to 1999. One of the authorities covered is the ability of associations to levy fines. The statute now provides that this authority applies to all subdivisions, even those created before 1999, so long as their restrictive covenants and articles of incorporation do not expressly provide to the contrary.

This legislation is now effective. Therefore, your association, after notice and a hearing (under the procedures you had previously adopted), can once again levy fines in the amounts and for the reasons as previously provided. If you have not retained your fine procedure, I believe that I have copies here.

I have enclosed a copy of the legislation in which the heavy blacklining shows the changes from the previous statute, and my handwritten lines and circles highlight the provisions that would now apply to your association so long as your covenants or articles of incorporation do not provide to the contrary.

Mr. Bill Rounds

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Do not hesitate to call me if you have questions regarding the legislation or its consequences.

Sincerely,

Howard, Stallings, From & Hutson, P.A.



Beth F. Atkins

Encl.

right to receive common expense assessments, but only to the extent the declaration expressly so provides;

- (15) Exercise all other powers that may be exercised in this State by legal entities of the same types as the association; and
- (16) Exercise any other powers necessary and proper for the governance and operation of the association."

SECTION 3. G.S. 47F-1-102(c) reads as rewritten:

"(c) Notwithstanding the provisions of subsection (a) of this section, G.S. 47F-3-102(1) through (6) and (11) through (17) (Powers of owners' association), G.S. 47F-3-107(a), (b), and (c) (Upkeep of planned community; responsibility and assessments for damages), G.S. 47F-3-115 (Assessments for common expenses), and G.S. 47F-3-116 (Lien for assessments), apply to all planned communities created in this State before January 1, ~~1999~~ 1999, unless the articles of incorporation or the declaration expressly provides to the contrary. These sections apply only with respect to events and circumstances occurring on or after January 1, 1999, and do not invalidate existing provisions of the declaration, bylaws, or plats and plans of those planned communities. G.S. 47F-1-103 (Definitions) also applies to all planned communities created in this State before January 1, 1999, to the extent necessary in construing any of the preceding sections."

SECTION 4. G.S. 47F-3-102 reads as rewritten:

"§ 47F-3-102. Powers of owners' association.

~~Subject to the provisions of the articles of incorporation or the declaration and the declarant's rights therein,~~ Unless the articles of incorporation or the declaration expressly provides to the contrary, the association may:

- (1) Adopt and amend bylaws and rules and regulations;
- (2) Adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from lot owners;
- (3) Hire and discharge managing agents and other employees, agents, and independent contractors;
- (4) Institute, defend, or intervene in litigation or administrative proceedings on matters affecting the planned community;
- (5) Make contracts and incur liabilities;
- (6) Regulate the use, maintenance, repair, replacement, and modification of common elements;
- (7) Cause additional improvements to be made as a part of the common elements;
- (8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, provided that common elements may be conveyed or subjected to a security interest only pursuant to G.S. 47F-3-112;
- (9) Grant easements, leases, licenses, and concessions through or over the common elements;
- (10) Impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements other than the limited common elements and for services provided to lot owners;
- (11) Impose reasonable charges for late payment of assessments and, after notice and an opportunity to be heard, suspend privileges or services provided

by the association (except rights of access to lots) during any period that assessments or other amounts due and owing to the association remain unpaid for a period of 30 days or longer;

- (12) After notice and an opportunity to be heard, impose reasonable fines or suspend privileges or services provided by the association (except rights of access to lots) for reasonable periods for violations of the declaration, bylaws, and rules and regulations of the association;
- (13) Impose reasonable charges in connection with the preparation and recordation of documents, including, without limitation, amendments to the declaration or statements of unpaid assessments;
- (14) Provide for the indemnification of and maintain liability insurance for its officers, executive board, directors, employees, and agents;
- (15) Assign its right to future income, including the right to receive common expense assessments;
- (16) Exercise all other powers that may be exercised in this State by legal entities of the same type as the association; and
- (17) Exercise any other powers necessary and proper for the governance and operation of the association."

SECTION 5. G.S. 47C-3-108 reads as rewritten:

"§ 47C-3-108. Meetings.

A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by unit owners having twenty percent (20%) or any lower percentage specified in the bylaws of the votes in the association. Not less than 10 nor more than 50 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each unit or to any other mailing address designated in writing by the unit owner-owner, or sent by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the unit owner. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer."

SECTION 6. G.S. 47F-3-108 reads as rewritten:

"§ 47F-3-108. Meetings.

A meeting of the association shall be held at least once each year. Special meetings of the association may be called by the president, a majority of the executive board, or by lot owners having ten percent (10%), or any lower percentage specified in the bylaws, of the votes in the association. Not less than 10 nor more than 60 days in advance of any meeting, the secretary or other officer specified in the bylaws shall cause notice to be hand-delivered or sent prepaid by United States mail to the mailing address of each lot or to any other mailing address designated in writing by the lot owner-owner, or sent by electronic means, including by electronic mail over the Internet, to an electronic mailing address designated in writing by the lot owner. The notice of any meeting shall state the time and place of the

meeting and the items on the agenda, including the general nature of any proposed amendment to the declaration or bylaws, any budget changes, and any proposal to remove a director or officer."

SECTION 7. G.S. 14-202 reads as rewritten:

"§ 14-202. ~~Secretly peeping into room occupied by another person.~~

(a) Any person who shall peep secretly into any room occupied by another person shall be guilty of a Class 1 misdemeanor.

~~(a1) Unless covered by another provision of law providing greater punishment, any person who secretly or surreptitiously peeps underneath or through the clothing being worn by another person, through the use of a mirror or other device, for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class 1 misdemeanor.~~

(b) For purposes of this section:

- (1) The term "photographic image" means any photograph or photographic reproduction, still or moving, or any videotape, motion picture, or live television transmission, or any digital image of any individual.
- (2) The term "room" shall include, but is not limited to, a bedroom, a rest room, a bathroom, a shower, and a dressing room.

(c) Unless covered by another provision of law providing greater punishment, any person who, while in possession of any device which may be used to create a photographic image, shall secretly peep into any room shall be guilty of a Class A1 misdemeanor.

(d) Unless covered by another provision of law providing greater punishment, any person who, while secretly peeping into any room, uses any device to create a photographic image of another person in that room for the purpose of arousing or gratifying the sexual desire of any person shall be guilty of a Class I felony.

(e) Any person who secretly or surreptitiously uses any device to create a photographic image of another person underneath or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person without their consent shall be guilty of a Class I felony.

(f) Any person who, for the purpose of arousing or gratifying the sexual desire of any person, secretly or surreptitiously uses or installs in a room any device that can be used to create a photographic image with the intent to capture the image of another without their consent shall be guilty of a Class I felony.

(g) Any person who knowingly possesses a photographic image that the person knows, or has reason to believe, was obtained in violation of this section shall be guilty of a Class I felony.

(h) Any person who disseminates or allows to be disseminated images that the person knows, or should have known, were obtained as a result of the violation of this section shall be guilty of a Class H felony if the dissemination is without the consent of the person in the photographic image.

(i) A second or subsequent felony conviction under this section shall be punished as though convicted of an offense one class higher. A second or subsequent conviction for a Class 1