

**CLOSED BOARD OF DIRECTORS MEETING MINUTES  
LAW OFFICES OF WELLS / OLAH  
THURSDAY, SEPTEMBER 14, 2017**

**CALL MEETING TO ORDER / ESTABLISH QUORUM**

President Andy Russell called the meeting to order at 1:07 p.m. All other Board members were present - Vice-President, Ken Filow; Treasurer, John Grabowski; Secretary, Donna McGregor; Director, Mary Courneya - making a quorum. The exception was Bernie Comeau, who was absent with notice. Also present was Judie Littell, LCAM representing PCM, along with attorneys Kevin Wells and Brett Sarason.

**PROOF OF NOTICE**

This was a 'closed' Board meeting to deal with GVLA legal issues. The meeting was posted as such on the website calendar and the Community TV Channel 196.

Attorney Kevin Wells

**IS GVLA - (being responsible for only landscaping and irrigation) an HOA ?**

Yes, we are legally bound as an HOA according to Florida State Chapter 720. 'Homeowners' association means a **Florida corporation** responsible for the operation of a community in which the voting membership is made up of parcel owners, and in which **membership is a mandatory condition of parcel ownership**, and which is **authorized to impose assessments** that, if unpaid, may become a lien on the parcel.

**1. GVLA ability to hold individual Lot owner financially responsible for intentional landscape damage -**

Article 5(a) of the Declaration - YES, GVLA has authority to "ASSESS" the Lot owner for damages caused. Assessment, rather than billing, allows GVLA to put a lien on the property. However, HOA liens are secondary to any mortgages on the Lot, and could end in GVLA ownership of the property. If there is no equity in the property, GVLA will never get its money out of the property. If an owner continues to turn off irrigation after GVLA has repaired the lawn, a court injunction is available. However, this will not repay the repair costs already incurred, and does not help in the case of lien/foreclosure if there are mortgages already against the property. It is not the intent of GVLA to own properties that require management for rental or resale.

The GVLA Declaration does not specify how often or how long a homeowner must water weekly. In order to 'enforce' this ruling via a court order, rather than assess fines, the Declaration requires an amendment - specific to number of days per week and minutes per zone. This requires voting approval by 2/3 of all Members.

Fines for violations are weekly unless specifically outlined in the Declaration. The Association has the ability to make rules pertaining only to "administration" of the Association.

The attorney can amend just one paragraph of the by-laws, covering watering responsibility. This requires the greater of:

- 1) A percentage of a quorum - 20% of Members/proxies at a Board meeting (46), and 67% must vote in favor (30 Members).
- 2) Otherwise, 25% of all voting Members must approve (58 Members).

The attorney can also - through the same vote - add an amendment giving the Board authority to adopt rules regarding 'lot use'.

Attorney recommendation is to establish a "**hard policy**" for a limit of arrears; advise all members of this, and start lien/foreclosure procedures.

## **2. OAK TREE MAINTENANCE RESPONSIBILITY -**

Article 5(a) of Declaration - Per Exhibit E of the Declaration, GVLA is a zero maintenance community as to the original plantings - pruning, trimming, including roots, of all trees and shrubs. The attorney advises this applies also to tree removal as needed.

The attorney encourages a yearly plan, priority established by an arborist, to remove oak trees threatening foundations.

A budget line item needs to be established for tree removal and Members advised (preferably at a Board meeting) of a planned number each year. Also advise Members of the county list of approved trees they can choose from to replace the oaks. Unlike the front yard, backyard oak trees do not have to be replaced. They are not "street" trees - per the county Canopy rule.

Judie Littell has recommended -

1. Dimitri Tree Service -
2. Escalante Professionals Tree Services  
6919 32nd Ave W, Bradenton  
941-251-9900
3. Florida Lawn Pros

Discussion on removal of the Washingtonian Palms and GVLA absolving itself from future maintenance care was not legal. If it's original landscape, GVLA is forever responsible.

### **3. IRRIGATION SYSTEM BACK-FLOW VALVE RESPONSIBILITY -**

Article 5(a) of Declaration - the HOA is responsible for the irrigation system including wells, equipment, utilities. Back-flow valves are 'equipment' and the attorney advises GVLA is responsible for the maintenance, repair, and replacement.

GVLA is responsible for the **irrigation only** back-flow - not the back-flow for the house. Any previous repair bills submitted by Members, will not be paid. Members will be advised GVLA is taking responsibility going forward from now.

GVLA will get estimates for this collective maintenance which will be included as a line item for next year's budget - to include inspection fees and repairs.

### **NEW ISSUES RAISED BY ATTORNEY**

Currently, under Section 1(a) / Exhibit A of the Declaration, initial lots 1-3, and 5-28, Tara Phase III, Subphase B, were subject to the original Declaration. Lot 4 seems to be exempt.

After searching the Declaration of Landscaping Restrictions for Tara Golf Villas, recorded 2001 by Lee Wetherington Homes and Towne Development of Tara Inc., the attorney found no amendments or supplemental Declarations. His search is not as thorough as a Title Search company. President, Andy Russell, volunteer to contact Wetherington for further information regarding properties later added under the Declaration.

Next step would have to be a title search.

Section 1(b) of the Declaration suggests additional lots would be added, however, the attorney has been unable to find any further additions.

If no other additions can be found, GVLA is an HOA of only the original 27 lots. This excludes the balance of GVLA homeowners. The Board would have to obtain signed agreements from the remaining Members to operate under the current GVLA umbrella. Although these homeowners purchased understanding they were part of GVLA, they would have to pay for their own landscaping, irrigation, etc.

If the Title company cannot find any additional lots under the initial Declaration, it will be necessary to meet with the attorney again to establish a plan to move forward.

Andy Russell has approached TMA for original documentation but has received nothing. An attempt will be made to locate any original Directors for helpful information.

**ESTOPPEL RESOLUTION** - The attorney addressed adopting the July 1, 2107 Estoppel Resolution. Andy Russell signed this for PCM at the August, 2017 Board meeting.

**CDD PROPERTY** - Andy Russell asked if GVLA had any recourse to the numerous problems homeowners are experiencing with growing trees, shrubs, grass onto their own properties. CDD is not maintaining the property under their own jurisdiction. The attorney advised homeowners can only cut anything back to their own property lines. Andy Russell has discussed the issues with several CDD members without results. Her next thought would be going to one of the local TV stations to address the CDD on behalf of GVLA.

**The meeting with the attorney ended. The Board continued its meeting.**

The top two issues to be addressed by the Board are:

**1. Budget** - Necessary for the budget are back-flow bids for all of GVLA. Judie Littell will provide Treasurer, John Grabowski, with the names and prices of some companies.

Line items to be added to the budget will include tree removal, irrigation/back flow, and legal fees, plus possible increase from FLP.

The preliminary budget will be voted on at the September 28, 2017 Board meeting. A 14 day notice will then be sent to Members advising the budget will be adopted by the Board at the October 26, 2017 meeting.

Discussion on increasing the annual dues \$12 to \$15 will be further reviewed at the September meeting.

**2. Additional Declaration Documents** - Andy Russell will follow up with Wetherington and Towne. Andy has been unable to find the original developer, Agnally, who apparently absolved himself of involvement before Tara Preserve was completed.

## **ADJOURNMENT -**

President, Andy Russell, **motioned**, seconded by Donna McGregor to adjourn the meeting. The motion **passed unanimously** and the meeting was closed at 2:45 p.m. The next Board meeting will be Thursday, September 28, 2017.55

