

BRAEBURN SUPER NEIGHBORHOOD #30 MINUTES

SEPTEMBER 9, 2022

Attendees:

Bert Ruiz, President; Jeannie Spriggs, Treasurer; Reese Ermis, Vice-President; Gena Sylvester, Recording Secretary; Alyssa Keller, Communications Secretary; John White; Shelly Richardson; Renee Smith; Veronica Hernandez; Andrew Mikkelson; Don Hickle; Alyssa Keller; Kim Hatton; Tim Hatton; Doug Phillips; Boaz Blake; Brian Barragy and guest, Susan Rice.

Approval of Minutes: Motion by Jeannie Spriggs, Second by Andrew Mikkelson

Guest Speaker – Susan Rice, Law Firm of Rice and Rice, opened the floor for questions and answers.

Bert Ruiz:

1. Please share how we identify and HOA versus any other entity
Answer: They are identified by restrictions and mandatory assessments. Civic clubs do not have mandatory assessments. A neighborhood must be a POA or an HOA for codes to apply.
2. Can a civic club have deed restrictions?
Answer: Civic clubs can have enforced deed restrictions. The issue they have is the budget and ability to enforce assessments.
3. Where do you find deed Restrictions?
Answer: They are found in the Real Property Records. The legislature states that you have to have a website with your government and management certificate.
4. If a group wants to become an HOA, what does the process include?
Answer: Any amendments to the deed restrictions should be at the end of the document. Work with an attorney to create the amendments and have that attorney explain the need for dues at the next meeting. A majority of the residents must vote to approve any changes.
5. Please discuss how homestead rights, prior to becoming an HOA, are affected.
Answer: You cannot foreclose on a property with an existing violation, however, you can get a judgement against the owner. They would pay the judgement after the home sells.
6. What if the deed restrictions do not outline voting privileges?
Answer: The legislature states that sixty (60) percent of residents must vote to have anything approved.
7. What is the term "business" defined?
Answer: Texas law states that an AirBNB is not a business. Any business that has a negative effect on a neighborhood is considered a business in violation.
8. How does a neighborhood get support for such violations?
Answer: The best way is to get an attorney.

John White:

1. Our neighborhood has several businesses and buildings in backyards. Can the City help?
Answer: It depends on what the City is willing to enforce at the time, but it is important to always ask.

2. The biggest problem we have is a tire store and the City will not assist us with this issue. He has no permits or licenses. What can be done?

Answer: Have the attorney file against the owner based on the Common Law Nuisance Theory.

Kim Hatton:

1. A property owner wants to turn a property into a detox residential facility. How do we avert this? We've asked the City Council. The Department of Neighborhoods knows. They are working toward a permit for sixteen (16) or more people. Does purchasing as a commercial property play a role?

Answer: Yes, and the state is very strict with how many persons live in one home. The people living there cannot pose any danger to surrounding residents or schools.

Bert Ruiz:

1. Does the school have to be a certain distance?
2. How many vehicles are allowed?
3. What if there is a pedophile on the premises?

Answer: These are all questions that need to be asked. Let all of your neighbors know the issue. The squeaky wheel gets action. Get in touch with state leaders.

4. What is the best approach to communication?

Answer: Email, meetings, and calling all of your City leaders to raise awareness. Invite them to the meeting, show them the property and ask them if they would want the business near their home.

5. How do several neighborhoods fight a business, at the beginning of a neighborhood, that is going to have a negative affect on the surrounding neighborhoods?

Answer: Work as a group in court. It will be less expensive.

Kim Hatton:

1. How much would something like this cost?

Answer: The cost would be anywhere from \$50,000-100,000 depending on how long it takes and if there is any resistance. If not, perhaps as little as \$2500.

Andrew Mikkelson:

1. What is the definition of a "single family residence"?

Answer: Single Family is defined as a separate residence on each lot. You cannot use that definition to go against "multiple families in a single residence". Get the license plate numbers. Regarding the definition of "family", a bunch of workers is not a family. Different cultures define "family" differently. So, there is no specific definition.

2. Our deed restrictions were written in 1958-59. It states that you cannot have an outbuilding with someone living in it unless they are a certified servant. How do we enforce this?

Answer: You have four years to enforce a deed restriction. That date begins when the violation is discovered. The first letter is a ten (10) day warning. If the owner does not respond, send two more letters stating that they will be sued.

3. What about subletting bedrooms to unrelated persons. Can you do that?

Answer: Make sure that the restriction is clear. You can only rent out the entire residence.

Brian Barragy:

1. If we are not equally questioning businesses equally, are we open to a lawsuit?
Answer: The Court of Appeals looks at the number of homes in the neighborhood. If the number of homes that are businesses is between 2-8.5 percent of the total, then they are not allowed.
2. To be a legally operating civic club in Texas, you must file with the City, the Secretary of State and file 990's. If none of that was done, can you operate as a civic association?
Answer: Yes, you can operate as a civic association, but if none of these have been filed, you have no legal shield.

Bert Ruiz:

1. A residence in the 1990's was sold to the City and it was turned into a detention pond. Is that allowed without neighborhood's approval?
Answer: It would depend on whether or not the property was condemned.

Susan Rice:

Texas Property Code 209 is not applicable to civic clubs. It only applies to Homeowner Associations. Code 201 does apply to civic clubs. That deals with having no restrictions. Code 204 gives the authority to collect assessments and late fees. Code 207 is about solar panels and rain barrels, generators and xeriscaping. Susan's office number is 713-840-1593.

NEW BUSINESS

We have volunteers for the 2023 slate of officers and will send out requests for other volunteers.

COMMITTEE REPORTS

Community Projects and Infrastructure

Andrew Mikkelson reported that TXDOT is adding lighting to Fondren. There is a concern regarding more lanes for bikes.

Brian Barragy added that the TXDOT plan does not agree with the Braes Oaks Management District Plan.

Bert Ruiz mentioned the grant which is focused on the City's driving fatalities on Bissonnet from Dairy Ashford to Hillcroft.

Brian Barragy stated that he was in a meeting about the same grant from I59 to Bellaire. We have been asked for support but the consensus is that we should get more information before we offer approval.

Andrew Mikkelson finished the report by stating that roundabouts do not work in areas that were not planned.

There were no other reports.

DISTRICT REPORTS

Veronica Hernandez, Department of Neighborhoods, discussed concerns from Districts C and J. She also reported that there will be forty or fifty vendors at Burnett Bayland Park on Gulfton for National Night Out.

Gena Sylvester asked if we have approved the I59 Detention Pond. Bert Ruiz responded that a letter has not been sent.

Tim Hatton mentioned that there are many children with drugs and trafficking is taking place by Michocana and the smoke shop.

Bert Ruiz

1. How would the Department of Neighborhoods be related?

Answer: We would coordinate with HPD and HISD

Shelly Richardson contributed that they have the same problem at Fondren Middle School. She asked the principle and counselor to attend their meetings. Once the kids leave school property, HPD is the only solution. Spring Valley has an authority presence that is working.

2. Can anything be done about houses that have stood vacant for multiple years.

Answer: No, unless windows are broken which constitutes an endangerment to the neighborhood.

3. On Gray Street, near downtown, the city passed an ordinance that a group of houses that did not meet code could be seized. Why is the same ordinance not being used in other areas?

Answer: Perhaps they are historic areas but she will look into it and get back to the group.

Don Hickle announced that a new trail is starting at Braeburn Glen and meeting Highway 6.

Reese Ermis moved to adjourn the meeting. Doug Phillips seconded.