



Bent Tree Harbor HOA

Informational Update



Issue 1 – May 2023

Welcome to the first informational letter for the HOA!

Let's start off with THANK YOU's

- A great big thanks to **all** of the previous Trustees that have volunteered over the years. Not one person can ever realize your contributions but each of you needs to know that your time, energy, and patience are greatly appreciated.
- Rick, Arthena, and Dwayne: Thanks for taking the time to pass the baton and information to the incoming trustees – it's so greatly appreciated!
- Pond Work
 - Rick Snow and Bill Fink for doing the pond treatment;
 - Rick Snow and Chuck Martin for redoing the stairs; and
 - Bill Fink for doing gravel work.
- Front Entrance: Thanks to everyone that donated cash, flowers, mulch, and time. The entrance looks great!

Changes that we, the Trustees, have implemented:

- This update will come out on a monthly basis around the first Saturday of each month which coincides with the monthly Trustee meeting.
- **Monthly informational meetings:** These will be held on the FIRST Saturday of each month at 9:00 A.M. and will be for one hour. Any modifications to this schedule will be posted on the BTH web page. Progress updates on subjects will be shared along with general information. The intent is to keep you in the loop of what is happening so you aren't in the dark. We are entering uncharted waters here so bear with us. If there is a specific topic you'd like to hear about, please write it down and submit it to the email address below so we can discuss how we can incorporate it in the process.
- The Trustees now have a designated email address: BTHTrustee@yahoo.com. If you'd like to send an email, feel free to do so.
- All volunteers will be required to execute a Release of Liability. This will protect BTH from any claims from an individual or company for accidents.
- A BTH facebook page is being created and managed by the office that will be used to post information and notices. Notices will no longer be posted to other BTH facebook pages.
- We have secured a contact with an accounting firm that works with non-profits that can guide Kelli with what needs to be accomplished in order to have an audit done. It is possible that the services will be done at a very low or NO cost as they are known for doing pro-bono work for non-profits.

*******SPREAD THE WORD! GET THIS OUT!*******

BTH IS HIRING FOR THE FOLLOWING POSITIONS: Guards and Maintenance

Pick up an application at the guard shack or office or download from benttreeharbor.com. Applications must be turned in to the office or emailed to benttreeharbor@yahoo.com



BENT TREE HARBOR *COMMUNITY GARAGE SALE - MAY 20th, 2023* *8am – 5pm*

Locations: Community Building, Pavilion, and various lots throughout Bent Tree. Maps will be provided. Bring your cash and your carts and find your new treasures. If you have questions contact Dawn Williams on facebook.

July 1, 2023

Ed Duval Memorial Poker Run

Starts: 10am at the community building. \$10 per participant.

Raffle prizes drawings will begin ASAP after check-in at 1pm. Donations for raffle prizes can be dropped off at Gary Jeffries place or he can pick them up!

Bent Tree Fair

9 am - 3:30 pm Donation Fee: BT owners \$20, Non-BT owners \$30

Outside space only available: Contact Twilla Malkerson 903.440.4226

BTH Firework Show

See ya at dusk – 8:30 ish

Fund Raisers

- **Wastewater Treatment Plant:** A Go Fund Me account <https://gofund.me/c0c00663> is now active and is growing. Last weekend there was a pub crawl that raised \$334, which was matched, so another \$768 has been added to the pot to make the total to date at \$2,073.
- **Animal Shelter Fundraiser by Debby Harman Tanner.** She'll take just about anything that will help an animal... food, treats, collars, towels and blankets, beds, food bowls, toys, cash for medical services and anything else you could think of. If you are interested you can reach out to her on Facebook.
- **Pond Refurbishment.** The goal is to raise enough funds to pay for the last treatment needed for the pond, fix the beach and add gravel and sand to the beach, and to re-route the water flow so the beach does not wash out again. For donations, reach out to Jimmy Lillis, Rick Snow or Bill Fink. At this point, \$940 has been collected but more is needed. Time and labor are being donated.

Make a Difference...

Join a Committee!

Committees are currently forming and we need volunteers. If you are interested in joining, please contact the office. Below are the committees we are aware of, if you know of others or want to create another, please email us at BTHTrustee@yahoo.com.

- Environmental: Dan Harman
- Bylaw Committee
- Fundraising Committee
- Lot Clean Up Committee



Let's get down and dirty now. There has been a lot of swirl around this!

We are moving right along. There have been multiple conversations with the DNR and they are comfortable with the go-forward at this time. The first draft of the AOC is anticipated to be received by the end of May. Many firms have been contacted but HOA's just aren't very popular clients due to the reputation of having low funds and not being very easy to deal with. Even with those obstacles, we are expecting a couple of proposals by the end of May for the initial phase with scope that will include grant submission for potential funding. Additionally, a local engineering firm and a firm in KC have indicated interest. Upon receipt and approval of the AOC to move forward by you, the members, we can then request a formal proposal for us to review. Quite possibly we may have more firms on board by then. This will aid us in knowing how much money will be needed for the engineering fees, etc.

One of the requirements from the DNR was to revise our Covenants and Bylaws. We have reached out to a development attorney who specializes in this discipline to aid in our revisions. At this point, we are negotiating a 'lower fee' and shooting for pro-bono. Let's see if we can get some magic going for the pro bono!

We found some correspondence with the DNR that we thought was interesting. So, if it's interesting to us, it just might be interesting to you, as well. Here goes:

INFORMATION PROVIDED BY DNR (excerpts from the February 2023 conference call with DNR, Benton County health Dept, and the Board in place at that time):

- Ultimately, per the DNR, "this is a situation where we want cooperation from the Board. As long as you're working with us and making efforts in good faith to get this done, we will work with you. We will not escalate enforcement actions as long as you guys (BTH) are demonstrating that you are cooperating."

Statements below were made by DNR to the Board of Trustees

- "Bent Tree Harbor was developed decades ago when a company called National Development Company came to Missouri and decided to start buying up large swatches of land to create these recreational developments for people from the city to come out to recreate over the weekend or however long and then go back to the city. National Development Company kind of took that a little bit further and wanted to incorporate year-round living, or residential options within those developments. National Development Company did that through going to DNR for approval for the method of wastewater handling and treatment within the development. Because of the size of these developments, National Development Company knew that DNR had jurisdiction because the development fell under what is known as the subdivision rule. It's in State regulations and it basically says that if a development is of a certain size and the lots within the development are of a certain size then you must go to DNR for the method of wastewater treatment handling approval. National Development Company did that for Bent Tree Harbor and we approved the use of holding tanks to go into the development for the recreational use of the lot owners who'd be purchasing lots within the development. DNR approved the overall method that is going to be used in the development for wastewater treatment and handling. But DNR did not regulate holding tanks. So, DNR approved the use of holding tanks as the overall method, but we do not regulate those holding tanks. Benton County Health regulates the holding tanks as far as the standard for installation, the material so that it has to meet certain specs for an approved holding tank. So, the Department of Natural Resources defers to Benton County for regulating those types of criteria for those holding tanks that are used within the development. Moving forward even further, in the early 90's Bent Tree Harbor submitted an application to construct a wastewater treatment plant. That wastewater treatment plant was meant to serve the wastewater handling needs; treatment needs within Bent Tree Harbor. We approved that wastewater treatment plant to be constructed and that's the plant that you have onsite today. This plant was designed not fully encompassing the entire Bent Tree Harbor wastewater needs. The issue that we have run in to over the years is that the original approval that was given for these holding tanks was mediated in Bent Tree Harbor. So, holding tanks were being put in that

were unchecked, unregulated. At this point what we're trying to do as part of the enforcement action is resolve two problems in Bent Tree Harbor. One, the holding tanks and the management of the holding tanks and two, the operation of the plant and keeping that plant in consistent compliance where Bent Tree Harbor can achieve compliance and then get out of enforcement and operate on your own. The plant is under DNR's jurisdiction fully. We need to have the resident's support. The Board has to get the residents on board with them in order to actually forward. A lot of this stuff is actually going to require votes and we need to have an understanding from the residents out there that this is not going to go away. This is not just something that if you just bury your head in the sand and plug your ears and whatnot that it is going to go away. This is actually going to just get worse if we don't have cooperation from the residents to be able to give the Board the authority to be able to do what they need to do to make these changes throughout the entire development. Part of that is going to be education so the residents out there; most average people out there do not know anything about wastewater. They really don't. They flush their toilet; it goes away and they don't think about it anymore. That's the normal person. But in Bent Tree Harbor because you are in the sewer business, you have your own wastewater plant, you have a permit to operate that plant, and you have a responsibility to make sure that plant actually meets limits and stays in compliance. You have a much tougher job to make sure that everybody who is involved in this process understands the seriousness of it and understands why it's important for them to take care of their holding tanks. Why it's important for them to not allow those holding tanks to fall into disrepair or discharge out on to the ground. Why it's important that some of the dues are going to have to increase in order to support the compliance of the wastewater treatment plant. The compliance of keeping those tanks pumped out. So that's education. The more education of factual information that we can provide the residents, the more support you hopefully will get from those residents to be able to move forward. I'm hoping that some of this information in these questions that Dan sent to me, I'm hoping that you can use some of that as, for lack of a better term, ammunition to be able to help educate the residents that are out there to where they can get on board with what's happening here and help. With that being said, that's the first step in this enforcement action and in actually getting things resolved. Getting support from everybody that is out there. The next step is going to be getting that inventory completed. I know that it's been tough with getting that information; some of the residents because of whatever their issues are don't want to provide information or maybe they don't know. I'm sure that over the decades, lots have changed hands a number of times and the lot owner that currently is either owning or living on that lot may not know all the history of the lot prior to them purchasing it. That's ok. Those are situations where the board will need to send out representatives to meet with these residents and do surveys and find out exactly what is going on."

Explanation of AOC (Abatement Order of Consent):

- "It is a legally enforceable order but it is also an agreement; so, you have say in what it says. You have schedules that are put in so essentially scheduling the AOC will say by "X" date you have to have the engineering evaluation done. Then based on that engineering evaluation recommendations you have to do updates to the wastewater treatment plant. So, by "X" date you have to have those upgrades to the wastewater treatment completed. Then the next peak (*Note: the next "X" date*) in the schedule will be updates you have to have the holding tank management plan completed by an engineer and submitted to the department for review and approval. Upon approval of the holding tank management plan by "X" date you must make changes in your By-Laws to be able to enforce what the holding tank management plan says. Enforce the controls that you are putting in place to manage the wastewater that's being generated there in Bent Tree Harbor. If it's a situation where the lot owner is discharging and that discharge is leaving their lot and getting into waters of the state; "waters of the state" means any water conveyance, creeks, streams, whatever that crosses property boundaries, that is waters of the state. And, so, if there is sewage that is actually getting into a creek, DNR gets involved at that point."

Points made by DNR:

- "If DNR has a problem where an individual lot owner is polluting and the Board does not demonstrate that they have been taking enforcement action against that individual lot owner, then the Board is ultimately liable. So, keep that in mind and remember that when you start addressing these individual lot owners for non-compliances, you (Note: the Board) are ultimately going to be the responsible party if you fail to actually get them to comply."
- "If there's a lot out there that does not have a holding tank, well let's just say for an example, it has a holding tank on it but that holding tanks filled up and being compromised and so they just disconnect it from the holding tank and straight pipe it right out on the ground. That is a situation where they have failed to comply with what was approved in Bent Tree Harbor's original By-Laws and they must (comply) and prevent contamination or pollutants reaching the environment in violation of Missouri's Clean Water Law. So, at that point it is the Board's responsibility and personal expense to that lot owner."
- "Bent Tree Harbor, your rules and restrictions, your By-Laws and Restrictive Covenants, are as strict as Benton County or stricter. So, let's just say that for example that Bent Tree Harbor says that in their ordinances you have to fix something within 60 days that's in violation. Benton County say 60 days, that's their deadline. You, as Bent Tree Harbor's Board, and your By-Laws and Restrictive Covenants you can make that stricter than 60 days. You can say Ok, Benton County 60 days, we say 30 days. You can do that. You can absolutely make your By-Laws and Restrictive Covenants stricter than the tier above you. But it cannot be less strict than the tier above you. It is a joint effort between Board, Benton County, and the Prosecuting Attorney."
- "You (Board) have to have an enforcement kind of branch of the Board that is going to go out there and issue citations and do inspections and that kind of stuff to make sure that everything is being complied with."

In Closing:

Thanks for your support! The Trustees: Kevin, Rich, Brad, Steve, and Kelli

As Babe Ruth said, "The way a team plays as a whole determines its success. You may have the greatest bunch of individual stars in the world, but if they don't play together, the club won't be worth a dime!"