



**MINUTES OF TALL TIMBERS HOMEOWNERS ANNUAL MEETING - Sunday
November 16, 2003**

MEETING SITE: AMERICINN, NORTH BRANCH, MN

Attendees: Board Members; Lloyd Lehnen, Vince Schoon, Darrell McGuire,
Mark Hughes, Ken Grieger, Tonya Wilbur, Sharon Gallagher

Home Owners Signed In (See attached sheet with 33 Home Owners Present –
Attachment #1)

Note: A Quorum = 28 Homeowners - **22 (60% of the Quorum) Votes are needed to
pass or defeat a vote**

- 1) Meeting was called to order by Lloyd Lehnen, President at 6:15PM
- 2) Opening Remarks: Lloyd Lehnen, President welcomed the homeowners and asked homeowners to be sure they had signed in and also signed the sheet that they received and agreed to the August 10, 2003 Restated By-Laws and Covenants (**ATTACHMENT #2**) This evening homeowners will be voting for two (2) Board Members, Secretary and Treasurer position. Lloyd introduced the current Board Members and thanked Mark and LouAnn Hughes, Joe & Traci Hopp, Don Murden and Julie Wermerskirchen for hosting the second annual block party this past fall.
- 3) Vince presented Robert's Rule of Order (see attached attachment **#3**).
- 4) First order of Business:
 - Approval of the minutes of the August 10, 2003 Special Meeting Minutes – A motion was made by Ray Rau and seconded by Tom Davis to accept the minutes. ***The motion passed with 31 Ayes, (0) Nays.***
 - Approval of the November 3, 2003 Annual Tall Timbers Home Owners Meeting Minutes - A motion was made by Pat Farrell and seconded by Ray Rau. ***The motion passed with 31 Ayes, (0) Nays.***
 - Treasurer's Report was presented to the homeowners by Tonya Wilbur, Treasurer (See attachment **#4** Profit & Loss Sheet 1/1/2003 – 11/14/2003). Tonya noted that this year was a learning year for expenses and revenue. There may be additional expenses for 2004.

- 2004 TTHA Association Fee - Lloyd reported that due to the balance of the Profit & Loss Sheet, there will not be an increase in the Annual Association Fee for 2004 and will remain at \$150. We need to have a reasonable balance in the Association Account and that we do not want to have assessments down the road. A motion was made to accept this budget by Tom Davis and seconded by Ken **Grieger**. **The motion passed with 31 Ayes and 0 Nays**. The Audit Committee Report was presented by Vince Schoon that both Lloyd and Vince had audited the Treasurers Report for 2002/2003 and reported that everything was accounted for and balanced (**ATTACHMENT #5**). A motion was made by Ray Rau and seconded by Mary Jane Allen to accept the Audit Report. **The motion passed with 31 Ayes and 0 Nays**.
- Septic System - Article III, Section 3 states: “The Association shall also provide the City of North Branch an annual certification of a licensed septic inspector that such a system is operating properly.” Date of inspection for our septic system was 5/20/2003 by Chris Zierke, Licensed Septic Compliance Inspector and by Guy Lillemo, Licensed Septic Pumper. The report from Chris Zierke states, “Based on the compliance criteria, the system status is in Compliant” (**ATTACHMENT #6**). The certification document was filed with the City of North Branch October 22, 2003. Vince reminded the homeowners that the State law indicates individual homeowner septic tank must be pumped every three (3) years minimum. A motion to accept this report was made by Mary Jane Allen and seconded by Ray Rau. **The motion was passed with 31 Ayes and 0 Nays**.
- TTHA Covenant & by-laws Article III, Section 3 – Maintenance by Association of Lift Stations - The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management and control of the Common area and proceed for all maintenance, repair or replacement (collectively referred to as “maintenance”) of the Common Areas improvements and any services or utilities, including septic drain field lines located thereon or elsewhere. The Association shall also provide the City of North Branch an annual certification by a licensed septic inspector that such system is operating properly. Based on not knowing the costs or where the septic system common grounds or parameters are, the Board is recommending that a Septic Committee be established. This committee should consist of one (1) Board and (2) home owners to study these issues and obtain better definition of maintenance, problems, issues and costs. It is suggested that this committee bring to the homeowners by Mid-summer of 2004 a presentation based on their findings. A motion was made to organize a committee by Lloyd Lehen and seconded by Jane Larson. Vince then called for nominees. Tom Davis asked if three homeowners would be enough to cover this task. Vince Schoon felt that this committee would be committed to at least six months and that three homeowners could handle this. Vince Schoon asked if anyone was opposed to this motion. **This motion was PASSED 31 Ayes, (0) Nays**

- Vince then asked for NOMINEES: Karen Johnson, Dean Sullivan and Vince Schoon were nominated and accepted.
- Mark Hughes reminded property owners when they are making any improvements that they be submitted to the ACC Committee, which consists of Darrell McGuire, Mark Hughes and Ken Grieger prior to submitting to the City for approval. Mark Hughes presented the ACC report on Dog Kennels. Currently the Covenant does not state the size of kennels. In checking with the State, all dog kennels must have shade. The ACC Committee is proposing that all kennels must be behind the house and no larger than 6 x 10' and have a screening of some sort such as lattice that will provide privacy and not be visible to any neighbors. A motion was made to accept this change by Ray Rau and seconded Darrell McGuire. After lengthy discussion, a motion was made by Rand Larson and seconded by Richard Zunker to increase the kennel size to a maximum of 110 sq.ft. The motion was defeated with (15) Ayes and (12) Nays. A Call was made for the original question to accept the current proposal as is at 6' x 10'. A motion was made by Darrell McGuire to compromise and amend the size to 6' x 12' vs. 6' x 10' and seconded by Ray Rau. Discussion continued. Tom Davis called for the question 22 Ayes and 10 Nays. ***The motion passed with (24) Ayes and (7) Nays.*** The covenant will state 6' x 12' (Attachment #7).

2) Election of TTHA Board Members as follows:

Lloyd asked for Nominees:

- Secretary Position Nominees – Sharon Gallagher (1) year
- Treasurer Position Nominees – Tonya Wilbur (1) year
- Board Member Nominees (2) year positions-
 - Lloyd Lehnen
 - Don Murden
 - Richard Zunker
 - Robert Allen
 - Brad Kelpsa

(Ballots were collected and reported at the end of the meeting.) Ballots filed with Secretary files.

3) Unfinished Business:

- COMPLIANCE, ENFORCEMENT, CONSEQUENCES AND VARIANCES
Special Committee Report -

PURPOSE:

Assignment from Special Meeting TTHA Assembly

DEVELOP RECOMMENDATIONS TO ENFORCE THE COVENANTS AND BY-LAWS OF TTHA, DEVELOP RECOMMENDATIONS FOR CONSEQUENCES AND DEVELOP METHOD FOR VARIANCES IF THE COVENANTS AND/OR BY-LAWS ARE NOT FOLLOWED.

COMMITTEE MEMBERS:

Mary Jane Allen, Pat Farrell, Jane Larson, Vince Schoon and Bob Welsch

APPROACH:

REVIEWED VARIOUS COVENANTS AND BY-LAWS FROM OTHER HOMEOWNER ASSOCIATIONS

RESEARCHED INFORMATION ON SEPTIC SYSTEMS

EXAMINED BY-LAWS TO DETERMINE IF CLARIFICATION WAS NECESSARY OR A CHANGE WAS APPROPRIATE

CONTACTED NORTH BRANCH CITY HALL OFFICIALS

CONSIDERED COMMITTEE'S OWN EXPERIENCES, THOUGHTS AND INPUT FROM VARIOUS TTHA LOT OWNERS

PLACED EMPHASIS ON DETERMINING WHAT IS MOST FAIR TO TTHA LOT OWNERS WHEN RECOMMENDING CHANGES TO THE COVENANTS AND BY-LAW

ENFORCEMENT, CONSEQUENCES, VARIANCE COMMITTEE:

- A Committee shall be formed and shall have the responsibility to coordinate all three efforts of enforcement, consequences and variances. This committee shall consist of four (4) members of the TTHA and one TTHA Board Member.
- The Committee shall develop operating procedures and communicate results to TTHA Board for review by April 1, 2004 and to all TTHA Lot OWNERS by May 2004.
- An appeal process is available and shall be made to the TTHA Board in writing with all previous documentation surrounding the issue.

- TTHA Board shall support the decisions of the committee unless the decision is deemed unreasonable.
- Mary Jane Allen recommended that we organize Enforcement, Consequences and Variance Committee. A motion was made by Dean Sullivan to establish a committee and seconded by Rand Larson. *The motion was passed 31 Ayes, (0) Nays*
- Election of the Enforcement Committee - Ray Rau, Dean Sullivan, Brad Kelpsa, Mary Jane Allen, Darrell McGuire and Mark Hughes. Votes were taken and the following homeowners will be on the committee: Dean Sullivan, Brad Kelpsa, Mary Jane Allen and Mark Hughes. Bob Welsch made a motion to accept and Pat Farrell seconded to approve. The motion passed with 22 Ayes.

PROPOSAL FOR ENFORCEMENT AND CONSEQUENCES MEASURES:

Enforcement and consequence process will consist of the following:

- Use of peer pressure as a means to ensure compliance to TTHA Covenants and By-Laws
- Deliver initial letter to Lot Owner outlining Covenant/By-Laws non compliance matter, and date by which Lot Owner must respond, letting us know when compliance will occur
- If Lot Owner does not respond by due date to initial letter, deliver second letter to Lot Owner with a fine of \$100.00 and payment due date. The letter will restate the non-compliance issue and the expectation of the Lot Owner to correct it.
- Once the Lot Owner is notified of the fine, the fine must be paid by the due date with the intention of correcting the non-compliance issue, or appeal to the TTHA Board in writing by the said due date
- If Lot Owner does not correct the matter as outlined in the letters and is still in non-compliance, the next steps are contingent upon the severity of non-compliance. These are:
 - Additional fines
 - Conciliation Court
 - Arbitration

In all cases, deliver the Lot Owner a letter indicating the course of action in which we intend to proceed.

- Upon delivering letters to the Lot Owner, a signature is required by the Lot Owner showing receipt of letter.
- If the Lot Owner refuses to sign, the Committee members delivering letter(s) will both sign indicating received by Lot Owner

▪ **Suspend privileges, which at this point specifically refers to voting privileges for the TTHA Lot Owner**

OTHER CONSIDERATIONS:

- Discussed the provision provided in the Covenants to place a lien against TTHA Lot Owner as a course of action for noncompliance
 - 1) Concern is in length of time it could take to either correct the problem or to receive compensation for any fine imposed, as a lien is not enforceable until the refinance or sale of the home.
 - 2) This option is not considered viable

This Committee's recommendation is to have a motion to adopt these Enforcement and Consequence Measures.

- A motion was made to accept the Committee proposal by Robert Allen and seconded by Rand Larson. Open discussion: Barry Mossbarger asked if this committee could legally fine someone. Mary Jane responded that if everyone agrees, than this will become the official form for enforcement and that we will have our legal advisor review the format.

At this point the homeowners discussed the above process for enforcement and the Committees role in delivering the letter to homeowners indicating the course of action in which they intend to proceed. The homeowners questioned if the Board should be responsible for this letter or the Committee.

Tom Davis called for the question to stop the discussion. A vote was taken to end the discussion. **Result of the question was 31 Ayes, 0 Nays. Results** of the original motion 21 Aye and 6 Nays. **The motion was defeated.**

A motion was then made by Darrell McGuire and seconded by Tom Davis to revote to accept the Enforcement, Consequences and Variance. There was lengthy discussion of who should have the final decision to issue the letter of non-compliance and what the responsibility of the committee should be and if there would be an appeal process. The homeowners will still be able to have an appeal process and a variance can be given based on individual circumstances. A call for the question was made by Vince Schoon and seconded by Tonya Wilbur to end the discussion. Result of this call for the question **was 25 Aye and 5 Nays.** Result of original motion **20 Ayes and 5 Nays. Motion was defeated.**

Again, there was discussion that if we do not have a formal process for enforcement that the By-laws and Covenants will not be followed. A motion for amendment was made by Richard Zunker and seconded by Ray Rau to add the following: **1) The board would make the final decision on a non-compliance issue; 2) The board would deliver the letter**

to the TTHA lot owner and 3) The committee would be responsible for keeping the board informed on all activities. A call to vote was made by Richard Zunker and seconded by LouAnn Hughes. ***The motion passed with (29) AYES, (0) NAYES.***

At this point, the homeowners were asked to “stand up” and make a clear vote with the recommendations of accepting the amendment to have the Board make the final decision and deliver the letter of non-compliance and have the Committee be responsible to informing the Board. Result of this vote 22 Ayes and 7 Nays. The motion passed.

PROPOSED CHANGES TO EXISTING TTHA COVENANTS AND BY-LAWS:

⌘ **ARTICLE V – SECTION 2; ARCHITECTURAL CONTROL COMMITTEE**

Committee proposed adding: i.e. decks, accessory buildings, gazebo, playhouse, but not limited to these only. Before commencing with any permanent improvements. A motion was made by Darrell McGuire and seconded by Mary Jane Allen to approve this proposal and to include the word “construction of permanent improvements.” ***Motion passed with 31 Ayes, (0) Nays***

⌘ **ARTICLE VI – SECTION 2: DESIGN AND CONSTRUCTION STANDARDS – Structure of Exteriors**

Committee proposed changing the work to be completed within six (6) months to three (3) months. Darrell McGurrie made the motion to accept and seconded by Mary Jane Allen. Open for discussion. ***Motion was made by Tom Davis and seconded by Ray Rau to call for the question and defeated with (18) AYES. And discussion continued. The original motion was voted and received (12) AYES - Motion was defeated. The covenant will stay at six (6) months.***

□ **ARTICLE VI – SECTION 5: Driveways**

Committee proposed to delete “All motorized vehicles and/or trailers allowed on such lots must remain on this driveway.”

Committee proposed to add “All improved lots shall have one hard-surfaced driveway constructed of either concrete, asphalt, or brick leading from the street to the garage within six (6) months of the original building permit.”

A motion to accept these changes was made by Tom Davis and seconded by Ray Rau. ***The motion passed 31 Ayes, (0) Nays***

□ **ARTICLE VI – SECTION 6: Satellite Dish**

Committee proposed changing the wording to “Two satellite dishes, limited to a maximum size of 4 square feet each is allowable on any Lot.” Garry Weisinger made the motion to accept and seconded by Ray Rau. *Motion passed 31 Ayes, (0) Nays*

□ **ARTICLE VI – SECTION 7: Sodding or Seeding of Lots**

Committee proposed change to include “front and back yards along with both sides of the house, and to be approved by the Architectural Control Committee.” A motion was made by Darrell McGuire to vote and seconded by Ray Rau to accept the changes. *The motion was defeated (20) Ayes and (6) Nays*

□ **ARTICLE VII – SECTION 2: Vehicle Parking**

Outdoor storage/parking is not permissible for boats, motor homes, recreational vehicles, trailers, and the like. These vehicles shall only be stored within a garage or similar structure. Temporary storage is allowable for extenuating circumstances in driveways only, and is defined as a total of 5 days within a 30 day period, with no one occurrence to exceed 72 hours.

Parking on the street and/or is not permissible overnight.

Dean Sullivan made a motion to accept this proposal and was seconded by Bob Welsch. Homeowners discussed the term “vehicle” and Barry Mossbarger made the motion to amend the wording to allow overnight parking of personal owner vehicles that are used on a daily basis and Mike Matz seconded it. A call for the questions was made by **Bob Welsch and seconded by Mike Matz to end the discussion. Result of the call for the question was 24 Ayes. Result of the amendment to allow overnight parking of personal owner vehicles that are used on a daily basis was 24 Ayes.**

Brad Klepsa made a motion to amend the Vehicle Parking to include temporary storage is allowable for seasonable parking and the drop the “Parking on the street and/or driveway is not permissible overnight” and Mike Matz seconded. A call for the question was made by Bob Welsch and seconded by Joe Hopp to end the discussion with (28) AYES. *The amendment to the original motion was defeated with (23) Nays to leave as is.*

θ **ARTICLE VIII – SECTION 1; ENFORCEMENT**

(ADDED WORDING)

ENFORCEMENT. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Suit to enjoin or remove any construction, additions, or alterations in violation of this Declaration may be instituted at any time. Any claim or controversy arising out of or relating to this Article or the breach thereof shall be settled by conciliation court or arbitration in accordance with the rules of the American Arbitration Association, and the judgment or the award granted by the judge or arbitrator may be entered in any court having jurisdiction thereof.

A motion was made by Heather Broadway and seconded by Karen Johnson to accept. Open discussion to see if this can be done. A motion was made to set this issue aside and check into it further. *The motion passed with 26 Ayes.*

PROPOSED ADDITIONS TO EXISTING TTHA COVENANTS AND BY-LAWS:

- 1) All TTHA Lot Owners' septic tanks must be pumped at a minimum time period of (3) three years

TTHA will contact with three separate septic pump contractors who will supply data to both TTHA Board and City of North Branch. If these selected contractors are not used by TTHA Lot Owners it will be the responsibility of the TTHA Lot Owner to submit a report to the TTHA Board indicating their septic tank has been pumped within the designated time period along with the overall condition of the tank.

- 2) It is the responsibility of all TTHA Lot Owners to properly maintain their individual septic system as well as the TTHA common septic system functions (drain lines, drain fields and lift stations). Any Lot Owner that is in non compliance with proper septic system maintenance for their individual septic system that also negatively affects that of the TTHA common septic system components will be held responsible for all costs incurred in restoring the common septic system to its original condition.
- 3) Riding of snowmobiles, ATV's, three wheelers, four wheelers, dirt bikes, is Permitted on main roads in TTHA at a reasonable speed from driveway to designated trails. Driving of these vehicles on TTHA common or private property is not permitted.

A motion was made by Darrell McGuire to accept the above additions (1 and 2) with the amendment of changing WORDING IN ITEM #2 ("original condition" to "proper working condition") and (3) and seconded by Ray Rau. Open discussion. Darrell McGuire called for the question and Pat Farrell seconded to end discussion. *Result of the call for the question was 25 ayes. Voted on the above original motion with the amended change. Motion passed with 27 Ayes.*

✕ **ARTICLE VII – NEW SECTION; GARBAGE CANS ETC.**

Garbage, refuse, debris and recycle containers must be stored within a garage or similar structure until day of collection or evening before collection. On the day of pick-up the garbage, refuse, debris and recycle containers shall be returned to same facility.

Robert Allen made a motion and seconded by Ray Rau to accept. Open for discussion. A motion was made by Barry Mossbarger to make an amendment to the above motion to store garbage cans inside of the garage and/or outside not in public view and seconded by Tom Davis. Result of the amendment was 28 Ayes and 1 Nay. Result of the original motion was 28 Ayes and 1 Nay. *The motion passed.*

□ **ARTICLE VII – NEW SECTION; LAND USE**

LANDSCAPED AREAS. Each Lot Owner shall maintain the landscaped areas on his or her Lot. This is to include, but not limited to, proper weed control and general maintenance. A motion was made by Heather Johnson and seconded by Tom Davis to accept this wording. Open discussion. Darrell McGuire called for the question to close the discussion and seconded by Tom Davis. The result of the call for the question was 26 Ayes and 0 Nays.

θ **ARTICLE VII - (NEW SECTION); USE OF COMMON AREA**

The Common Area shall be used strictly in accordance with the easement granted thereon. Except as herein provided, no Lot Owner shall obstruct or interfere whatever with the rights and privileges of other Lot Owners in the Common Area and nothing shall be planted, altered, constructed upon or removed by a Lot Owner from the Common Area without the prior written approval of the TTHA. If a Lot Owner shall violate this Section, the TTHA shall have the right to restore the Common Area to its prior condition and assess the cost thereof to the Lot Owner who violates this Section. The TTHA shall have the right and power to collect the costs of such restoration as provided in Article IV. A motion was made by Heather Broadway and seconded by Tom Davis to accept. Open discussion. Tom Davis called for the question to end the discussion and seconded by Ray Rau. Result of the call for the questions was 26 Ayes. Result of the motion was 26 Ayes. The motion passed.

■ **ADD TO: ARTICLE V; SECTION 2; SWIMMING POOLS**

In ground swimming pools are permissible only after approval by the ACC. TTHA Lot Owner must submit plans to the ACC for review and approval prior to beginning any construction.

Permanent above ground swimming pools are not allowed

A motion was made by Darrell McGuire and seconded by Joe Hopp to accept. Open discussion regarding defining the definition of pools. Dean Sullivan noted that if the association approved we would be held liable. A motion was **made by Vince Schoon to table this for further review and seconded by Dean Sullivan. Result of the motion was 26 Ayes. The motion passed.**

Announcement of the Board Members elected for 2004:

- **Don Murden = 22**
- **Lloyd Lehnen = 21**
- **Richard Zunker = 8**
- **Robert Allen = 8**
- **Brad Kelspa = 7**
- **Secretary – Sharon Gallagher = 30**
- **Treasurer – Tonya Wilbur = 29**

Meeting called to adjourn at 10:00 PM by Lloyd Lehnen and seconded by **Mark Hughes. Result of the motion was 30 Ayes to end the meeting.**

Respectfully submitted,

Sharon Gallagher, Secretary

Lloyd Lehnen, President

Approval Date _____