

Tall Timbers

**Homeowners Association Annual Meeting
Sunday, December 13, 2009
AmericInn Meeting Room #2
North Branch, Minnesota 55056**

I. ROLL CALL & ESTABLISH QUORUM:

A sign in sheet was located at the meeting room's entrance. Each homeowner was asked to sign next to their address on the sign in sheet. There were 28 signatures along with 10 proxies (all with voting privileges) establishing a quorum. Tall Timbers has 48 homes 60% of the homeowners are required to establish a quorum. The 2009 TTHA Annual meeting established quorum with 80% attendance.

II. CALL TO ORDER:

The Annual Meeting of the Tall Timbers Homeowners Association was called to order at 6:10 PM on Sunday, December 13, 2009 at the AmericInn Meeting Room #2 in North Branch, Minnesota 55056 by Dave Randall, TTHA President. Also present were Board members, Ken Grieger, Mats Bergqvist, Julie Wermerskirchen, Richard Zunker, Warren Fulton and Randy Berglin.

III. APPROVAL OF 2009 TTHA ANNUAL MEETING AGENDA:

Dave Randall motioned to approve the 2009 TTHA Annual Meeting Agenda with one change. That change is to move; Agenda number XI. New Business item A. Property Management to follow Agenda Number IV. Welcome Remarks and Reminders. That Motion was seconded; opened to discussion. Motion passed unanimously

IV. WELCOME REMARKS & REMINDERS:

In Dave Randall's opening comments he thanked everyone for attending the 2009 TTHA annual meeting. He thanked the 2009 Board members.

A special thanks to all those who planted flowers and maintained the monument area this past year. Thanks went out to Karen Johnson for her continued hard work on the Septic Committee. And thank you to Vince Schoon for his willingness to drive and improve the website project.

New members were welcomed to Tall Timbers. Stephan and Carol Randall at 37422 Hearthside Lane.

Dave Randall reminded the members that in 2003 it was established that all TTHA meetings would be run under the Robert's Rules of Order, briefly highlighting that process. Dave also noted we were using the digital recorder to record the meeting for accuracy in documenting the minutes of the meeting.

V. NEW BUSINESS;

A. PROPERTY MANAGEMENT:

Richard Zunker motioned to determine if there was interest within the TTHA to go forward on the Property Management Option presentation. Motion was seconded; Discussion followed. Vince Schoon called for the question; Call was seconded. 7 Ayes, 31 Nays. The motion was defeated.

Julie Wermerskirchen motioned for a vote to determine if the TTHA wanted to enter into a contract with Gassen Property Management to provide management services to TTHA. Motion was seconded. Opened to discussion, Vince Schoon called for the question, Call was seconded. 3 Ayes, 35 Nays, Motion was defeated.

VI. ELECTION OF TWO (2) TTHA BOARD MEMBERS FOR ONE 3 YEAR TERM EACH:

Julie Wermerskirchen nominated Shari Erickson, that nomination was seconded; Shari accepted the nomination; Shari later withdrew her nomination.

Mark Hughes nominated Vince Schoon, that nomination was seconded, Vince accepted the nomination.

Julie Wermerskirchen nominated Joe Hopp, that nomination was seconded, Joe accepted the nomination.

Richard Zunker nominated Dean Sullivan, that nomination was seconded, Dean accepted the nomination.

The TTHA had the privilege of voting for 2 BOD from a roster of 3 candidates. The 3 candidates are: Dean Sullivan, Joe Hopp and Vince Schoon.

After a careful vote count with no hanging chads, the TTHA elected Joe Hopp and Vince Schoon to the TTHA BOD for one 3 year term each.

VII. APPROVAL OF DECEMBER 07, 2008 TTHA ANNUAL MEETING MINUTES:

Dave Randall motioned to accept 2008 Annual Meeting Minutes, that motion was seconded. Opened to discussion. Richard Zunker called for the question; Call was seconded. Motion passed unanimously.

VIII. TREASURER'S REPORT:

Mats Bergqvist presented the 2009 Treasurer's report. He reviewed year to date figures, comparing 2009 actual to 2009 budgeted expenditures, as well as 2009 actual to 2008 actual, Mats brought to the TTHA's attention that one of the 48 Lot Owners Annual Assessments had not been collected for 2009 totaling \$200.00; that being at the former Wilbur residents, 37387 Hallmark Drive. Multiple attempts have been made to collect the dues, talking with the listing real estate agent, real estate company and others. The response has been; TTHA will collect the dues when the house is sold and closed on. He also reviewed the current fund balances.

The \$200 expense for the attorney's line item was questioned. An explanation of the attorney's summary of the expenses was presented. Included below is a copy of that summary.

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<u>Attorneys at Law</u> Glen A. Boyce Nathan P. Fuglestad		<u>Paralegals</u> Jennifer McAbee Valerie Gunia
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August 20, 2009

Ms. Julie Wermerskirchen 37336 Ivy Trail North Branch, MN 55056	Tall Timbers Homeowners Association P.O. Box 625 North Branch, MN 55056
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RE: Tall Timbers Homeowners Association

Dear Ms. Wermerskirchen and Board Members of TTHA

My responses to the questions brought to me by Julie on behalf of Tall Timbers Homeowner's Association, are as follows.

1. *Does a Homeowner's Association have power to pass covenants and restrictions pertaining to the platted streets, that is to control places, times, and duration of parking?*

Since the platted streets of the Association have been dedicated to the public and are being controlled, and maintained, by the City of North Branch, the Association does not have authority now to control the streets by covenants, restrictions & easements. The only way it could have had ongoing authority is to have reserved such right prior to dedication, with dedication being made subject to this.

You might ask the City Council for special provisions in City ordinances as they apply to the streets within the Association, that the use not be inconsistent with your covenants and restrictions pertinent to driveways. This may not be allowed because of the lack of uniformity in City ordinances controlling streets. I don't think anyone can say for sure though except the Council addressed in meeting.

2. *If there are members of the association who may not have been served with covenants, restrictions & easements, and declaration of By-Laws at the time of purchase of their home, can they now be required to comply with the covenants, restrictions & easements and by-laws?*

There is not a black letter law which covers all facts and specifics from which a claim or controversy might arise as a result of this, and the question is thus too broad to answer categorically. Each case in other words would have to be addressed in view of its own facts and looked at in light of prior court holdings. The following statements are given as a generalized discussion of the question however.

The Declarant -- that is, the Developer or its agent, or the Homeowners' Association when the Association is seller of homes -- is required per *MN Statutes §515B.4-101(e); 515B.4-102; 515B.4-106(d)*, to deliver a disclosure statement to the Buyer at the time of the sale of a home, including in the statement the above referenced covenants, restrictions, & easements, and declaration of By-Laws. If the

disclosure is not made, the Buyer has the right within ten days to avoid the sale.

Any action at law which may be brought by a purchaser/owner for non-delivery of the declaration must be brought within six months of the sale. (Minnesota statute of limitations, §515B.4-115).


An owner with actual notice of the required disclosure information would not be justified in disobeying Covenants & Restrictions, even though such owner had not been served the same. Actual notice may depend on a combination of one or more of the following, for example: documents being of record in the County Recorder's Office, documents having been mailed or otherwise given to the owner at some point in time other than service at time of purchase, Covenants & Restrictions having been discussed at Association meetings at which the owner was present, or discussed more informally with the owner admitting notice.

The original Declaration for the Association is dated March 1, 1999. I don't have copies or information showing whether these documents were recorded, though they usually are as a matter of routine, and I would think they have been. The Bylaws are dated December 2004, and I have received a copy by e-mail. There is not a recording number, or other data on this copy showing that it was recorded, though I would think it was also. The Declaration of Covenants were amended in December, 2008, and these were recorded on March 24, 2009. I have been advised that they were served personally in December of 2008 on all owners.

By reason of the passage of time from the date of the original Declaration, with persons becoming familiar at meetings, etc., and by reason of the recent amendment of the Declaration of Covenants with notice given to all, in most cases there would not be reasonable excuse of insufficient notice for non-compliance. If any member in the Association is known not to have received notice of the Association documents, such notice should be given now. If such an owner is not in compliance with Association requirements, extra time should be given for adjustment to be made.

If I can be of further assistance please contact me at this office. Thank you.

Yours very truly,



Glen A. Boyce
Atty. Reg. No. 10352

GB/vg

cc: Tall Timbers Homeowners Assn.

Dave Randall motioned to accept the 2009 Treasure's Report as presented, Motion was seconded. Motion passed unanimously.

VIX. COMMITTEE UPDATES AND REPORTS:

A. SEPTIC COMMITTEE:

Richard Zunker presented the Septic Committee report. Karen Johnson also presented a brief summary of where the committee is currently positioned. The TTHA thank Karen for her years of service and work on the Septic Committee.

As required, TTHA had the 2 shared lift station pump and inspected on December XX, 2009. Both lift stations passed inspection and were reported to be in proper operating condition. The record of the pumping and inspection was submitted to the City of North Branch. On February 09, 2009, Resolution No. 014-02-9-09, the city of North Branch approved the request for the inspection of the TTHA drain fields every three years. The next drain field inspection is scheduled for 2011.

Richard Zunker asked for 2 volunteers to help him with the work of the committee. Andy Peek and Patrick Mickelson volunteered to be part of that team. R & M Septic Services on the invitation of Richard Zunker also had a brief presentation on their services.

Vince Schoon motioned that we increase our annual fees without a dollar amount assigned with that increase designated to the Septic Fund, the motion was seconded. Discussion followed. Based on the discussion that ensued and the recommendation by Andy Peek, that a feasibility study be implemented by the Septic Committee over the next two years and brought before the TTHA with a evaluation of our septic system, the projected lifespan of our drain fields and then a projected dollar amount required to properly fund our septic fund, Vince withdrew his motion.

Richard Zunker motioned to accept the Septic Committee report, the motion was seconded. Discussion, motion passed unanimously.

B. TTHA VALUE ASSURANCE:

Julie Wermerskirchen presented on Value Assurance; Julie reported on the actions taken throughout 2009. The floor was opened to questions/concerns regarding VAC.

Dave Randall motioned to accept the TTHA Value Assurance report. The motion was seconded. Discussion, the motion passed unanimously.

C. ACC COMMITTEE:

Ken Grieger provided an update from the ACC. 2 projects were presented in the past year, projects approved and completed.

Dave Randall motioned to accept the TTHA ACC Committee report. Motion was seconded; discussion. The motion passed unanimously.

D. WEBSITE COMMITTEE:

Dave Randall reported that we have yet to be billed for the 2009 TTHA Web site hosting costs by the Web Site hosting person/company, and as of this afternoon the site was still up and running. Dave noted that Vince Schoon continues to be the go to person, web site administrator regarding the TTHA web site, and that in conversation with Vince, has not had contact with Karl Esbe the web site individual. Vince asked the question "is there enough interest in keeping the Web site up and operational?" Discussion followed surrounding the actual use by TTHA members, several members noted that they used the web site to reference to by-laws, covenant questions as well as homeowners addresses.

Vince Schoon motioned that whatever the TTHA By-Laws and Covenants require for delivery of meeting notifications and other TTHA business be the procedure that is followed for such actions. Motion seconded, discussion, motion passed unanimously.

X. COVENANT & BYLAWS REVIEW AND UPDATE:

Dave Randall noted that the BOD had no Covenant or By-Law updates to present to the Association.

Andy Peek motioned to change **Article VI Section 4** of the TTHA Covenants; Accessory buildings; Changing only the maximum square footage from 480 square feet to 576 square feet. The motion was seconded. Discussion followed. Richard Zunker called for the question. The call was seconded. Motion passed, 33 ayes, 3 naves.

XI. OLD BUSINESS:

A. MOWING:

Randy Berglin motioned that a volunteer mowing committee be established to explore and present a plan to the TTHA BOD for the mowing what is currently contracted by TTHA for mowing. This plan will be presented to the TTHA BOD at the April BOD meeting for their review and consideration. Motion was seconded. Discussion followed.

Dean Sullivan motioned to amend the original amendment to include those volunteering to do mowing must be limited members of TTHA. The amendment was seconded. Discussion, motion passed unanimously.

Ken Grieger motioned to amend the original amendment to; at least one BOD member is assigned to oversee the work of the mowing committee. The motion failed to get a seconded, the motion failed.

The original motion with the approved amendment passed 36 Ayes, 2 naves. As a point of reference, Linda Fulton and Shari Erickson will co-chair this committee. They will present to the April 2010 BOD Meeting.

XII. NEW BUSINESS:

B. NATIONAL NIGHT OUT:

Julie Wermerskirchen motioned to adopt a TTHA National Night out for the first Tuesday of August 2010. and to establish a committee of 3 to coordinate the event. Motion was seconded. Discussion followed. Motion passed unanimously. Julie Wermerskirchen, Shari Erickson and Nancy Murden volunteered for the committee.

XIII. 2010 PROPOSED BUDGET:

Mats Bergqvist presented 2010 proposed TTHA budget. He went through an explanation of the budget and the dollar amount attached to each line item. The 2010 proposed budget did not increase from the 2009 budget.

Vince Schoon motioned to accept the TTHA 2010 annual budget as presented. The motion was seconded. Discussion followed. Motion passed unanimously.

XIV. 2010 PROPOSED DUES:

Dave Randall motioned to keep the 2010 TTHA Lot Owners dues at the \$150.00 per year per Lot Owner, with the 8 Lot Owners on the shared lift stations paying an additional \$50.00 per year in Association dues. The motion was seconded. Discussion. Motioned passed unanimously.

XV. OTHER BUSINESS FROM ASSOCIATION:

No additional business brought before the TTHA 2009 Annual Meeting.

XVI. ADJOURNMENT:

Dave Randall motioned for meeting adjournment, motion seconded, motion passes unanimously. Meeting adjourned at 8:08PM.

Respectfully submitted by;

Randy Berglin
Secretary, TTHA

Approved by;

Dave Randall
President, TTHA