

September 11, 2015

Dear Tomahawk Creek Homeowners,

After the last election there were questions raised as to what the election process is and what the Nominating Committee reports to the Board of Directors in terms of results. With the annual election approximately two months away, and in an effort to answer these questions, the Board of Directors, the Nominating Committee, and the Covenants Committee have discussed and developed a checklist that will be followed every election night. It was also decided what results will be provided to the Board by the Nominating Committee and therefore be announced to the community. With that being said the Board wanted to provide all residents with an understanding of the process, additional details and what results will be announced.

**Nominating Process the Night of Election (Please see attached document for a more detailed process):**

1. Nominating Committee validates proxies
2. Proxies are sorted
3. Ballots are counted first
4. Proxies are recorded by ballot of the person named on the proxy
5. Valid ballots/proxies are counted to determine if quorum has been achieved.
  - a. Quorum is a 1/3 of eligible votes (356/3), which equates to 119. Quorum is not based on weighted percentage.
    - i. The Kansas Uniform Common Interest Owners Bill of Rights Act overrules our Declaration and Bylaws and requires that all owners are allowed to vote during elections. Therefore, 1/3 of eligible votes will always be 356/3 which equates to 119.
  - b. If a quorum is achieved the Nominating Chair will announce to the general public in attendance at the Annual Meeting that a quorum has been achieved.
  - c. If a quorum is NOT achieved the Nominating Chair will announce to the general public in attendance at the Annual Meeting that a quorum has NOT been achieved.
  - d. At this time, the President can ask for a motion from the owners to postpone (up to 48 hrs.) the meeting in order to attempt to reach quorum. A majority of those owners in attendance would allow or deny the postponement. No additional notice of the reconvened session is required.
6. Votes are tallied based on the unit's weighted percentage (in accordance with the Declarations and Bylaws).
  - a. Only "Yes" votes are counted and reported.
  - b. Each candidate must get 51% of the weighted percentage of the cast vote to be elected.
7. Nominating Committee reports results to the Board of Directors.
8. Candidates are informed of the vote.

9. Votes are posted and announced to the community

**Additional Details:**

The election process is governed by TCC's Declarations and Bylaws as well as the Kansas Uniform Common Interest Owners Bill of Rights Act.

- Neither the Board nor the Nominating Committee has the authority to deviate from the Declarations and Bylaws or the Kansas Uniform Common Interest Owners Bill of Rights Act.

The Board of Directors, at the time of the election, has limited involvement in the election.

- The Board is not in the room at the time ballots/proxies are validated or counted.
- The Board is not a part of the entering of the data into the Excel spreadsheet where the results are tabulated based on weighted percentage, which is in accordance with our Declarations and Bylaws.
- The Board never sees the ballots/proxies cast.
- The only details that are presented to the Board are the results that are presented to the Board by the Nominating Committee, and then announced to the community.

If a quorum is achieved but no candidate receives 51% of the weighted percentage of votes cast, the Board has the following 2 options:

- Adjourn the meeting and appoint to the open positions.
- Extend the meeting for up to 48 hrs. to see if the candidates can get 51% of the weighted percentage of votes cast. This extension has to be motioned and a majority approval of the remaining owners at the meeting.
  - If at the end of the 48 hrs. those candidates who get 51% of the weighted percentage of the votes cast will be elected.
  - If all of the positions are not filled, then the Board will appoint to the remaining positions.

If quorum is not achieved, the meeting is left open for up to 48 hrs. If at the end of the time a quorum is still not achieved the meeting is adjourned and the Board appoints to the open positions.

Below is each unit's weighted percentage.

- Condo's
  - A and J Units – 0.3080%
  - B and K Units – 0.3228%
  - C and L Units – 0.2672%
  - D, F and H Units – 0.2300%
  - E, G and I Units – 0.2378%
- Townhomes
  - A and H Units – 0.4302%
  - B, C, D, E, F, and G Units – 0.4237%

### **Valid Votes (Ballots and Proxies):**

Per the Kansas Uniform Common Interest Owners Bill of Rights Act an owner has to be present in person or by proxy at the beginning of the meeting. If the owner is not present when the meeting is called to order their Ballot and any subsequent Proxies are invalid. Also the Kansas Uniform Common Interest Owners Bill of Rights Act states a person, other than a member of the board of directors may not cast undirected proxies representing more than 15% of the votes in the association ( $356 * .15 = 53$  proxies).

- Valid Proxies
  - Must be filed with the Secretary prior to the opening of the meeting
  - A proxy is void if it is not dated or purports to be revocable without notice.
  - A unit owner may revoke a proxy given pursuant to this section only by actual notice of revocation to the person presiding over a meeting of the association.
  - A proxy is valid ONLY for the meeting at which it is cast and any recessed session of that meeting.
  - Presence in person by the giver of the proxy at the meeting for which the proxy is given shall automatically invalidate the proxy.

### **Results:**

The results that will be reported to the Board of Directors and the Homeowners are as follows:

- Whether quorum was achieved or not.
- The total number of votes cast (this identifies quorum and is not weighted as previously mentioned).
- The total weighted percentage of YES votes for each candidate (this is weighted).