

**Tomahawk Creek HOA Board Meeting
February 6, 2007 (6:30 PM)**

Participants: Linda South, Ken Patrick, Gayle Voyles, John McKelvey, and Debra Smith.

Feb. 15th HOA Mtg. 7 PM Guest Speaker: Keith Turnbaugh, of Farmers

Linda and John, Ken, and Gayle discussed the confusion caused by Debra's letter to one bedroom homeowners, while waiting for Debra to arrive. She arrived at 6:38 pm.

First, Linda stated that she was interested in hearing Debra explain her letter to the one bedroom homeowners. Debra started by saying she rallies the troops regardless of being on the board; I believe that the one bedroom homeowners' needs are not being cared for by this board or previous boards. I believe we need further financial analysis. Tom Scanlon gave her the idea; get proxies from one bedroom homeowners. In my opinion, weighting of the quorum is ridiculous; a person by their presence should have equal value. This discussion of a weighted quorum convinced me the board really doesn't want to value the opinions of the one bedroom homeowners. Another lady called today thanking me for writing her letter.

Linda then said, what may have gotten lost here is we are still in the process of determining the revised by-laws. We have not completed our revisions; once we have completed that process our final document will be sent back to the attorney. There is still an opportunity to discuss these issues before we finalize and publish for homeowners to review. They will get a chance to review, ask questions, and to attend a meeting with the attorney who will field their questions. Then homeowners will vote on it. We are early in the process and I find your letter premature.

Debra suggested that when we table issues to clarify whether it is for now or for good. It was my impression that once we table something we're pretty much done with it. The second part is that we need to be more open. On the other perspective (other than board speaking as a team), we all talk about board meeting discussions. Just like the legislators that communicate with their constituents. It would be right for me to know how other homeowners feel.

John said, You don't think that the board has a responsibility to represent the group (homeowners of all types of units) as a whole. Well, maybe, but my impression is that obviously the comments I've heard about dues, well if you paid my dues, you would get the power behind my vote. Linda, John, and Gayle all stated that in their impression the letter was out of place.

Ken said in the deliberations that have taken place so far, that only one issue the board reached was the assigned parking and that change *was in favor* of the one bedroom homeowners. Debra didn't think that was all that was resolved.

Linda asked Debra if she felt that she understand the process, yet. Homeowners know what the by-laws say and we aren't ready to discuss the revised version, because we are still in the process of drafting them.

Linda then stated that the larger issue is as a board you eluded we are here to represent the common good of our homes association; we manage the finances, upkeep the property. I think you have a hard choice to make...if you want to advocate for one bedroom homeowners you can do that, but if you believe your sole purpose is to advocate for one bedroom homeowners... I don't think you are suggesting that I can't discuss matters with residents while the process is ongoing. Linda again explained the problem being that she had put out a letter that looks like it comes from the board. Debra shared that she's had good feedback from homeowners.

Linda stated that it is appropriate for information sent to homeowners coming from the *board*. Debra said she made it clear that she was sending that out on her own. You referenced the board... on the weighting, without mentioning that this discussion was only the board's preliminary discussion.

Debra stated that she was tired of hearing snide comments.

Linda, it is a weighted vote that is tied to money units pay for assessment, which is tied to square footage. One bedroom units would have to pay more money to have more of a voice. Debra then stated that she gets tired of hearing that they pay so much more, because they get more of the money. Linda asked Debra to clarify her comment, "they get more of the money". Debra's response, "We need to be more analytical, budget money related to these issues. When they go towards wheel dips for garages and they are only paying 13%. Debra was informed that she had incorrect information. It was my impression that the wheel dips were only for the driveways. My point is, I get tired of hearing people say they pay more and should have more of a voice. Linda shared that in Debra's letter she referred to two bedroom townhome, which doesn't exist. Debra's response was that her letter was very mathematical. She then said that she understood Linda's point, but that she thought she had the right to inform people of what was going on. Linda stated that she still did not feel the letter being sent was in the best interest of homeowners. Debra then responded that she had emailed board members three times before on the quorum issue. No one had responded to her emails and that is why she felt it necessary to send the letter. Linda reminded Debra that a number of the emails were sent over the weekend and that she only gets her emails at the office. Gayle shared that Debra should have brought this to the board's attention; it was not appropriate to distribute a letter to one group of homeowners. Debra said she wanted all board members' phone numbers. Linda stated that her phone number is on her email. Gayle shared that she felt the board had the responsibility to work through these issues together.

The board members discussed whether emails or phone calls would be a better method of communicating when a board member is so frustrated. Ken Patrick then said that with e-mails one has something in writing to review. He felt phone calls would be harder to handle these issues.

When we bought we bought in under existing rules; people should get what they bought and paid for. Ken said that should be our basis. When we get close to the end maybe we will agree on key issues, and maybe not. The final action is letting homeowners vote on the board's suggested revisions. I may not love all of the decisions of how to handle the revisions, but usually board members will learn to come to a consensus.

I talked about control issues; when someone gets out of line them being threatened to be kicked off the board. This has happened in the past, too. We need to make clear, on the board, when we are done on an issue we are done.

Linda, we won't be done until the attorney passes over the final revisions and says we're ready to move on.

John – we represent the entire complex. I personally can not afford a vast decline in the value of my property, or for you or anyone else to. When you start taking sides you are making a serious mistake. It really upsets me when someone says that I am not taking one bedroom homeowners' interest to heart.

You sent an email referring to townhouse homeowners as being the enemy. I've run big operations and this is peanuts, but the thing is we have to work together and we can not get into a situation where we are fighting.

Debra's response: You need to remember that not all of us are on corporate boards and make good money. This isn't peanuts to the grandmas, so I got you John and I hope we do represent everyone. I saved and never got any money from my parents.

The board members then reminded Debra that the board had to care about each homeowner's investment. Ken said, Debra you question the whole concept of having the weighted vote. Debra said that *now* her problem was with weighted quorum.

The meeting was adjourned at 7:04 PM.

7:00 Storm Door Meeting

Linda welcomed homeowners. She stated that the group was here to talk about storm doors and to get homeowners' thoughts on the subject.

Cynthia reviewed the Anderson 3000 series that had been approved for the back door of units; silver handle and kick plate at the bottom; glass or screen. Currently, is allowed for the back doors only. Those interested in getting one for their back doors needed to fill out an approval application when you get ready to install. This one was approved in 2005.

Ken said that originally there were several homeowners that didn't want a storm door at all; this was the compromise. Today was a classic example of how today we could have

used a screen and glass the next day. One homeowner shared concerns regarding the need to approve the one that is easier for homeowners to change out the screen and glass.

Open for Comments Regarding Storm Doors for the Front:

2005- A survey was done; there were several homeowners that said yes, a few no. This has been a hot topic; so we will revisit.

A homeowner asked how much the approved storm door cost. Cynthia responded that it cost \$199 and Home Depot Installation was \$99.

Another homeowner asked if there was a delivery fee.

Response: If Home Depot installs the door there is no delivery fee; if not to install, there would be a \$30 delivery fee. Yes, the door comes with both the screen and glass. A homeowner asked if the door's glass was safety glass. Response: It is tempered glass.

Tonight, we're listening to what you'd like to see or not see. The proposition is a talking point. The question is should storm doors be allowed on the front, and if they are they'd have to follow architectural guidelines, and homeowners would pay for this expense, plus maintaining the door.

If you like the ability to have storm doors, mark YES; then mark All or By Owner Choice.

When asked if this small group was making the decision for the entire complex, Linda stated that these are just talking points. This meeting's goal was to provide insight on homeowners' opinion on this issue.

John McKelvey reminded homeowners that per the architectural committee's findings, the door would have to match the door that has already been approved. Carolyn McKelvey then held up a photo of the full glass or screen to show that this particular door isn't as noticeable (as a storm door) as the one that allows screen or glass to be slide back and forth. The bar makes it more obvious.

Homeowner; I can envision this is going to be a monumental disaster. They'll be changing screens over and over. This one shows screen on the bottom.

Homeowner: I'm interested in a front door. Anderson 300 is beautiful. Since installing one on my back door my light bill dropped \$10 first month. I love it and would love one on the front.

Homeowner: This is the fourth time speaking about the screen door issue; I'm glad we're past the closed mindedness of the previous board. I'd like to say that if any of you are in doubt of getting a storm door and don't know which way to go. I have one on my patio door; I have a terrible insect problem (by the canal and the western wind hits my door straight on) I have to tape my front door (all the seals) every summer and winter. The

insect problem has been mineralized with the storm door, heating bill decreases, security (+). There will be growth in this area; security will change over time. The other thing is it helps your resell value; whenever I have guests they first say, where is your storm door for the front? Having said that what I'd like to ask is to have someone share their feeling about why we shouldn't have storm doors.

Another homeowner shared that he and his wife had visited a new condo complex in Lee's Summit recently that had storm doors on some units and not on others. We felt it really looked bad with some having and some not.

Homeowner Questions:

- Were those storm doors solid glass like the one the architectural committee approved?
- What happens when the screen is in?
- Screen damaged, one with screen and one with glass.

Don't forget the other option of having a whole building decide for their building. Another homeowner said, that is what they felt didn't look good. One building with and one without didn't look consistent.

I have a condo at the lake and have a storm door just like this one. You have to look closely to determine which have them and which don't. What if someone has the screen on all the time and some glass all the time?

There are more back doors facing the street; but there are some front doors visible from the street. 61 front doors could be seen.

Todd, I was head of the architectural committee. Mike Smith and I spent 2 months trying to find a door. This one is under warranty and is of high quality. They have a security lock. Some leaving screens in them? We recommended that screens only be allowed in up to Oct. 31st, and then installed again in April. Key Issue: Owner would have to have a key for Cynthia, too. In case of an emergency Cynthia must be able to get in. Hardware is under warranty. This is the best way to go—it is uniform and doesn't stand out. He also clarified that he didn't think it would matter if not all had one. Ken Patrick said he commended Todd and his committee for the selection of the door.

Are we taking a community vote tonight? I just think the assets outweigh any negatives? Security, light in the room, and warmth were given as examples of some of the benefits. Do you care whether your neighbor has one?

Ron, I don't care if you have them or not. This thought of a screen/storm door offering additional security is a false sense of security. They can lock the screen door; someone could take a screen/glass cutter.

Gayle asked if there would be a problem when it was time to paint the outside of the buildings. Cynthia and Todd clarified that the painters could paint around them, IF the homeowner had given Cynthia a key.

Another homeowner shared the benefits that had been shared earlier. I have a question. How many have lifted one of these glasses and slid it under their bed? My guess is that many of our homeowners would have trouble doing so. A sliding door screen is pretty bad. I could go either way, but I am in favor of uniformity.

Another homeowner's view on the issue: When they first started out my thought was ok, if uniform. This year when it got really cold and I saw the light around the door I would keep the glass in year round—I'd leave glass in all the time due to efficiency issue.

Usability issues differ between front and back. Front door-usually will always have metal door closed. I have problem with approving screen doors that will have holes from pets, etc. Now, issues of monitoring when someone needs to repair or replace. How would you monitor when each homeowner needed to repair or replace their screen? Windows that are not maintained should be reported to Cynthia.

One person shared he was not in favor of approving screen/glass storm doors for front doors. Other concern; cost issue – if you require everyone to have it maybe not everyone would be able to afford it. One more comment – I have a choice in what I get to do. Standards are making sure this complex looks great. Therefore, I commend the board for their efforts to keep uniformity.

356 units, but we don't have 365 people here tonight. Therefore, maybe building to building is a better idea. What if 7 want the door, but one doesn't. We (one building) couldn't do it if it wasn't approved by all. The chances of getting one entire building to decide is next to nothing.

I have northern exposure. I've sealed my door, but it still feels like the door is open; another security measure. Also, any of my building #24 faces the north so there is an energy efficiency issue without them.

Hypothetical, if we should all decide that all units should have storm doors; couldn't the HOA get a better deal? Todd stated, YES, Anderson Doors had made an offer for group orders.

Another homeowner: Wouldn't you have to be sure most homeowners wanted the door?

Homeowner comment: I didn't object to the back, but did have an issue with the front door. Where do we go from here? Do we think it would be wise to issue another survey to everyone?

Harold and I really didn't want any, but after hearing of ground floor homeowners' issues with the cold, we've decided that we could live with a storm door on the front, *if* all units had them. Although we'd prefer not to have them, it isn't fair for those on the first floor having to deal with the cold.

Another homeowner's comment: How could we require that everyone purchase one?
Linda stated that she wasn't sure we could do that.

Homeowner remark: When we came here everything was uniform.

I don't see a problem with uniformity; I don't think they are that noticeable. I think if you wanted uniformity you couldn't do a special assessment like you did for termite. I agree that people will want them because our doors don't fit well.

Linda, the issue of requiring them to have one is that our governing documents state that doors and windows are homeowner responsibilities. How can we force them to buy and maintain a particular door?

How many absentee/off-site owners do we have? Linda deferred to Cynthia who reported that there are maybe 40. Can we require them to put storm doors on?

Could we just have a show of hands? In this group, how many would mark yes for one of the front storm door options? A majority of the homeowners raised their hands.

No –a few hands were raised

Yes, IF all units were consistent with a storm door on the front (seven hands raised)

Yes, IF by entire Buildings

Homeowner question: If we put it to a vote and the majority for one way or the other would that be the resolution of it? If you made a requirement for everyone to have one—some people will have trouble purchasing. A homeowner stated that possibly the HOA could purchase them all at once, at a discount, and allow homeowners a certain length of time to pay the association. Gayle stated that she had also made that suggestion to the other board members during their lengthy discussion on this topic.

Debra...When you start forcing people to buy them they might say then we'll buy the one we want.

Homeowner comment: The only way you can tell is the extra white metal facing.

Another homeowner's comment: Except when dirty or not maintained.

Homeowner comment: The photo shows the installed screen/storm door has a Bug-eyed look; hanging on its own. How would they fit? What type of frame would it take? Did you look to see the dimension of the door compared to the door facing? Todd stated that Home Depot said it would go on perfectly on the front and the back.

Linda asked if anyone had any last comments?

Are we going to do the survey? Consensus was that homeowners wished to see the board take a vote from all homeowners. One homeowner put his door in on his own. He could see how there could be complications with the fit and uniformity if homeowners could install themselves, or have multiple installers doing the work across the complex.

The meeting adjourned at 7:30 PM

Building 15 Drainage Issue Meeting (7:30 PM)

Participants: Ken Patrick, Linda South, John McKelvey, Debra Smith and Gayle Voyles, along with Homeowners of Bldg. 15, having the drainage issue, and Scott McConnell and Cynthia Selder

Cynthia – we're here to discuss the asphalt in driveways of Bldg. 15 – driveway slopes down into the garages allowing the rain water to go into their garages

McConnell – In working on that around the neighborhood this fall, it was a head-scratcher. The builder built that building with the lazyback curb higher than the garage floor. Landscape on the south side makes it difficult to drain to the south.

Upon our review of the situation we proposed two options:

1. Come out from garage floor and excavate along the garage doors, placing a trench drain in and then daylight it to the north (open field area) and put drainpipe all the way out. Slope it south to north.

Ken asked McConnell to show on a diagram what he was speaking of. We'd come out by the pillars (here) and excavate that out to put a trench drain (5 inches deep and 4 inches wide) in.

A homeowner asked if the drain would catch enough water?

McConnell stated that it would have to be maintained.

Homeowner's next question, "Is there not enough grade going away from the garage, going this way to take out the curb and drain it out?"

Yes – McConnell shook his head in agreement. John McKelvey: Todd, remember out in front of our townhouse; they put in a drain like he's describing and we haven't had any problems. Homeowner: Let's stay with option 1 for a second; what is the problem with taking out the curb?

McConnell: Another option – Take out the curb and excavate the entire driveway and redo the driveway. At this point we'd have to get rid of the curb and reposition the entire driveway. How long would this take? McConnell said initially two days. You could drive on the driveway in two days, but 6 months later you'd have to stay off of it again when it would be seal coated.

Homeowner: Structurally, is there anything wrong with Option 2? If you don't have a curb is there a problem with it? Scott McConnell responded, No, lazy back curbs just keep it from going into the landscape.

Self-serving – I'm the last garage – all the water will come my way. If that is the best solution, fine. But, I do have a concern with all the water going my way. These drain systems work fine, but they do require some regular maintenance – cleaning the drains. Homeowner asked McConnell if he had a choice which way would he go? Scott shared that when we started working on this we were trapped when it didn't work out the way we thought it would and my superintendent said to take the curb out.

My second option requires taking the curb out, extending out a couple of feet into the street; get driveway from the garage floors (3.5 – 4 inches). This option would assure you that water will shed off of it.

Homeowner remarked that they would never get a written guarantee on the job. McConnell stated that drainage tolerances were more controllable with concrete; asphalt is less controllable.

What is the benefit of doing the option with the Trench Drain? McConnell stated that it would be cheaper (\$3,400), while the other option required redoing the driveway and taking out the curb (\$6,700). McConnell also stated that he'd put rock underneath the driveways, too. Currently Todd's unit sits above the other two units. He asked how the water being drained out would affect the foundation; would it cause settling issues?

Homeowner: The new section of sidewalk is leaning more than it did before. Getting water away from the structure is important.

Homeowner: So, if Option 1 is best at \$6,700, why doesn't the board just go with that?

Linda stated that is what board members were getting ready to discuss with them. Ken shared that this place was built as an apartment complex, being the worst scenario; a builder and developer pre sold to an insurance company. They do it as cheap as they can. Pauls Corp. bought to convert and had the entire maintenance history which they didn't share with homeowners when they purchased their units. We can't correct everything that Pauls Corp. did wrong. If we fixed everything they did wrong we wouldn't do our fiduciary duty of making sure the association has healthy reserves.

We are willing, if I understand the board's position correctly, the board is willing to pay for the less expensive plan. You have common water that comes off the roof and hits on your limited common area (driveway). We will take care of the limited common area.

At this point the homeowners' speaker stated that was not acceptable and that they have legal representation, Shook, Hardy & Bacon). It is clear from the by-laws that the homes association has full responsibility concerning this drainage issue. Debra stated that she agreed with the homeowners, since people buy from the walls in.

Linda said, "Let's back up for a minute; I am a little unsettled."

Homeowner: What is the difference between \$6,700 vs. \$3400; how much does it cost to just take out the curb? When you look at the entire \$6700; how much is for excavating the curb? Minimal, right?"

McConnell said, "Maybe a thousand dollars."

Homeowner to McConnell: I'm putting you on the spot. Remember when you told me they were coming in to excavate I know I made a mistake and we'll do your maintenance later. From my perspective, someone should have looked at our driveway. We didn't have wheel dip problems. Now, the water settles closer to the door. If they were coming in to rip out the driveway why didn't they correct our problem at that time? You went through the expense to make us worse. I don't understand why the board didn't poll us, at that time, so we could kill two birds with one stone.

You guys had the whole deal done last fall. You didn't because we know there is more. Why all of a sudden?

Debra stated that three of us weren't on the board last fall. I've raised these issues and have been threatened to be removed from the board.

Homeowner Representative: You knew we had a problem; you shouldn't have done it the way you did in the first well. Linda said she felt that she (Cynthia) believed the prescribed situation would help.

There is a \$3,000 difference. I think taking down the curb and sloping it to the road will resolve the issue.

Come up with an amount you think we might be willing to share? How much have you already paid?

Homeowner: While the garage floor isn't affected, but now the garage door freezes and when I try to open it there is stress placed on my garage door opener. Tina has brought up what if someone falls; who will they sue?

A board member reminded homeowners that they have always had water at their units after a big rain; the slope of the driveway was that way when you bought. Tina stated her water issue didn't exist prior to the wheel dip work. She said, "so you want us to fix that and pay for half of the other."

Homeowner Representative: You were on the board and knew that we had a problem— why didn't you grab McConnell and come talk with us before they did their work.

Linda South, President of the HOA, replied that the board relies on the property manager and the contractors to make the best decisions about how to resolve these types of issues.

Scott added that his company was asked to identify the units having the worst wheel dip areas; at that time that was our main concern. We ran into a couple of driveways with issues similar to yours; street being higher than the garage floors. Cynthia and I worked on this and said we'll need to address these, but not do the engineering at that point. It would take more than what we had figured.

Do we have a compromise from your group?

Homeowner: I want to get this done; if \$0 - \$3,000 that maybe isn't a whole lot. My concern is the precedent that you are setting.

John McKelvey said, "Yes, so are we."

Homeowner shared that he felt the assigned parking issue took value away from some homeowners and gave to others. John McKelvey said that is a controversial and different issue. He continued to explain that more construction flaws will show up over time. The board has to be careful of what they commit as full financial responsibilities of the homes association. If Ken and others want to sell condos we have to have significant reserves.

Debra stated that the board needed to be concerned with what is legal and right? Who owns what and who designates common and limited common areas? If they assign you the right of limited common area then you have the authority to be responsible.

Homeowner comment: What happens if ice accumulates and someone falls? If we pay for part of it we become owners of the problem.

Todd stated that the condo's by-laws say it is a common area.

Another homeowner comment: Maybe we don't fix it and when my garage door breaks you'll pay for it.

(KEN) I had a roof leak that Pauls Corp. said they'd fix. They said they would fix the roof leak, but they didn't really. It leaked a second time and I got stuck with paying to repair the inside twice.

Debra, I recommend going forth that the square footage of driveways be part of the condo unit's expense. What is the correct legal definition of common area vs. limited common area? She stated that she wanted to see driveway owners pay more dues. We pay dues by square footage of walls in.

Gayle pointed out to the homeowner that those were Debra's personal views.

John- asked the homeowners to discuss and come back with their response to the board's proposal.

Linda shared that the sidewalks and driveways are limited common areas you use. The HOA has the responsibility to keep common and limited common areas maintained, but can also ask you to pay for repair, under certain circumstances. Obviously, the wheel dip was a mistake by the management company, contractor, and board. They thought your driveway issue would be improved. It was an unfortunate expense.

Homeowner remark: You can see the asphalt marks on the pillar.

Cynthia, from property management perspective: we did put a drain in and we really thought we were taking care of the problem. The management company didn't know that the driveway would be lower. A downspout was put underground.

Homeowner comment: Do I get credit for saving money on the sidewalk issue because of my suggestion to the workers?

Linda: When they didn't put those drains in under the sidewalks it is causing us problems in other areas. Obviously, board members are not concrete experts. It is unfortunate you have been inconvenienced and will be inconvenienced, again.

Originally, our proposal was based on the attorney's recommendation. We needed to fix the common water issue; put in the drain (\$3,500) and you be able to decide after hearing from Scott, what the best scenario would be to resolve the issue. We were willing to pay for all of the common area, and then if you also wanted the other option done the board would be willing to finance the other remediation. You would have two years to pay off your portion.

Homeowner Representative: A payment option is not the issue. Option 1 and 2 include the Trench Drain?

McConnell said he may have been responsible for some of the miscommunication associated with this issue and apologized to everyone. You can do the trench drain for \$3,410.

Homeowner: Will that guarantee that water will not come into your garage?

Another homeowner: With water/drainage issues you can't guarantee anything.

McConnell reported that his recommendation would be to remove the curb and redoing the driveway section; it would not require having a drain at all.

Gayle stated that was not the information that had been shared with the board. We were told you'd have to do both jobs. Scott said he took responsibility for communicating better with the team.

Homeowner: From my perspective, if you go from our garage floor/threshold (front edge) down to the road there is enough grade you don't need another drain.

John McKelvey, this is new information. Cynthia thought taking the curb out wouldn't take care of the water situation.

Now, Scott shared that the best scenario would be a \$6,700 job. Even if you could have overlaid you'd still have a thin layer of asphalt. Scott encouraged homeowners to deal with the issue right.

Homeowner: If you were to shoot from the bottom of the swale to the bottom of the driveway. If you'd have enough **I didn't get this part**. You wouldn't have to redo all of the driveway section. That would save you a lot of money. You have to be careful when you come up to the unit.

Linda apologized for all of the miscommunication and stated that the board had been given a different report. She shared that the situation made our report very difficult.

Scott said he'd re-work the bid and he would let Ken know when he would be coming out tomorrow. Todd stated that he also wanted to be present when Scott came out as he instructed Scott to knock on his door upon his arrival.

Linda asked Scott a couple of last questions:
How long would this job take? He said two days.
What would the weather conditions need to be? He replied that we'd want the temperature to be 50 degrees F. or higher.

The meeting was dismissed at 8:50 PM.