

Board Reviewed and Approved

December 20, 2007
TC HOA Annual Meeting
7 PM

Participants: President South, Gayle Voyles, Judy Brewster, Jennifer Nearing, Ken Patrick, Cynthia Selder and John Clock, from The Tiehen Group.
Approximately 50 homeowners were present. 33.43% participated in the voting process, in person or by proxies.

President South welcomed homeowners and started the annual meeting at 7:08 PM.

Election to Board of Directors:

Two candidates, Rochelle Metz and Jennifer Nearing, came forward and each gave a brief rationale of why they wished to serve on the board.

Rochelle reminded everyone that she is presently working with people with disabilities. She loves to travel, go to dinner, and have a good time like everyone. She then stated that she wanted to get more involved in our community and that she'd lived here for 5 years. She then ended by saying that she wanted to help make our community beautiful.

Jennifer Nearing spoke next; I am not going through my bio, but I've also lived here 5 years and was appointed to the board in the spring of 2007. She stated that she attended many HOA meetings and had also been going to the community's social events, as well. Next, she told that she first got interested in this community when she drove by and noticed the landscaping, was great at that time. She liked the look and I thought the buildings were maintained real well. Finally, she said that someone approached her last week and asked her what her agenda was. She shared that she had responded by saying that she I didn't have a personal agenda, but wanted to help make this a great place and to encourage others to also get involved. She promised to do her best for the community.

President South then asked for any nominations from the floor. There were none, so she announced that the candidacy for board positions was closed. Then, she asked if everyone had signed in and if everyone had a ballot. She instructed homeowners to mark their ballots and place them in the box. She also reminded homeowners that each *unit* can vote for *two* positions, but not two votes for one candidate. President South also stated that homeowners having a proxy would need to have a ballot for each proxy that they held.

She explained that the proxy was for the election of board of directors and that homeowners having a proxy would then get the proxy back to attach to the propositions paperwork, after the election of board of directors processing was completed.

President South then explained that we would proceed with the rest of the annual meeting, by having the December 2006 minutes read. Secretary Voyles read the minutes and President South asked if there was a motion to approve the minutes, as read. There was such a motion, it was seconded and the minutes of the annual meeting of 2006 were officially approved.

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John Clock, of The Tiehen Management Company, explained the financials, through Nov. 30th. Income is up, but so are expenses. Total Income year-to-date was \$19,232 more than anticipated, but total expenses were \$877 over budget as we paid \$965 to the UPS Store for mailings and \$474 to Fast Signs for new stop signs.

Net income projections (through November): John explained that unless we got hit by a massive snow storm the negative amount should shrink to about \$10,000 - \$15,000. He felt that considering everything that had happened this year, we were in pretty good shape. Finally, he told homeowners that the only way we were able to achieve that was by stopping putting money into reserves and by not finishing the seal coat project, as planned.

Projected 2008 Budget – John Clock –

There is no HOA dues increase; board mandate. If you look at your handout, the 2008 budget shows a projected total income of \$784,682. If you turn to the last page, you see that the projected total expenses come to \$784,294. If everything were to go as planned, we would have a net income of \$388.

Specifics, capital and non-operating expenses: \$80,000 earmarked for asphalt work this year. We plan to do seal coating for drive lanes, leaving \$60,000 for repairs and seal coating those repairs. Bids were from past fall; with cost of petroleum increasing, the bids may be increased. The contractor will honor the work they were supposed to do in the fall, and additional work slated for Fall of 2008 could be modified.

Capital painting – fences around the property rusted and need painting; trim inside the clubhouse \$5,000. \$8,000 for wood rot expenses; siding replacement; should be a relatively small number. We hope that will come true.

John Clock asked if anyone had any questions?

Homeowner Questions/Comments:

How much money is left in the reserves? John reported that we had \$279,261; so the reserves are healthy, but not where they need to be since our roads are private. He continued by saying that somewhere down the road the streets will have to be replaced and that would be a sizable expense. He stated that \$500,000 reserve is the board's goal; your community has more reserves than most properties, but we need to continue to replenish your reserves.

How much used to be put into reserves?

During 2006, \$6,500 a month was put into reserves.

During the first part of 2007, \$4,100 a month was put into reserves, until the problems hit. The 2008 proposed budget has allocated \$3,000 a month to be put into reserves.

John Clock asked if there were any other questions about the 2008 budget.

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Homeowner: Is there any other place where these expenses are explained? How do we know what these line items represent? John Clock asked if the homeowner could give an example: NSF Fees --insufficient funds; the amount of money we charge homeowners when and if their HOA payment bounces. The homeowner continued to ask questions regarding the following line items:

Vending income – John Clock explained that we receive a little income from the vending machine. Maintenance income – John explained that when Bill Gates does some work for homeowners it earns income for the HOA. Administrative Expenses – How do we break down office expenses? John then explained that all of the supplies needed to operate the TC HOA business fell under that line item and that the copier had a rental agreement, and that the computer lab equipment had a maintenance plan. He concluded by saying that the figures were determined based on historical information. The homeowner then asked about the stuff in the fitness room/Clubhouse expenses. John explained that it is in the 2008 budget to buy a new treadmill. Payroll- John explained that would include expenses of having Cynthia and Bill provide services for our community. Professional Management – The homeowner asked if that was The Tiehen Management Company? John Clock confirmed the comment. Clubhouse Expense – John stated some examples would be maintaining the exercise equipment, clubhouse problems like the furnace, drinking fountain, etc. Social expenses – John confirmed this covered the expenses for the community’s parties. Service Contracts – John explained that we had contracts for things like the fountains and that an example of a service agreement would be to remove algae periodically from the ponds. John Clock then stated that the board’s projections, if nothing breaks down, are to end up with a surplus.

Landscape - \$74,000 would be for the contract, which covers routine mowing, lawn applications; the types of things they do regularly. While services covered *extra* things like when a tree dies and needs to be removed, or when the irrigation system fails and needs repairs.

Homeowner Question: How do we get those things done? John replied that homeowners needed to report problems to Cynthia. The homeowner’s comment referred to the ongoing shrub replacement project. John explained that we spent some money in 2006 for shrub replacement, but the Board has budgeted more for this coming year.

President South then added that the Board had just met with the head guy from Epic and that he had said they’ll be giving us bids for replacement of bushes, trees, etc. Replacement bids will be in the thousands of dollars; these bids are *things for us to think about/consider*. The board will have to make decisions of what the budget will allow us to do and how to prioritize the suggested work that Epic reports on. President South pointed out that complaint/suggestion forms are in the mailroom. Cynthia added that if homeowners have trouble reaching her they should put their concerns in writing using the forms in the mailroom.

Homeowner Question: Is there a guarantee for replacement of trees and shrubs? John added that they are under a one year warranty.

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Homeowner Question: Was the sprinkler system ever fixed? John reported that it had been, but it was late in the season, after the grass already looked bad. A homeowner added that the turf in her area still looks really bad. President South assured homeowners that the issues surrounding landscaping had been discussed with the Epic representative earlier in the evening. She continued by stating what the representative had shared with the board members... During the first year of handling a new property the primary focus is in weed killing (weeds are green; when you kill weeds, you are left with brown places where the weeds have died). She continued to say that Epic believes, over time, all of that will get better. We are hoping to see great improvement this year. There is an issue with watering, as well. We are hoping with the irrigation system repairs and a change with watering schedule we will see improvements.

Homeowner Question: Does our irrigation system use water from the ponds? John Clock said no, and a homeowner, whose expertise is in the landscaping field, added that our irrigation system couldn't handle using water from the ponds.

There was some discussion regarding associated landscaping costs. A homeowner asked Cynthia about the time she had reported damage done on the hill, when they had mowed when the grass was too wet. Cynthia confirmed that she had called Epic and told them of the damage done; Epic fixed the problem and that the HOA didn't have to pay for the repairs. **Cynthia reminded homeowners of the importance of reporting any of these kinds of situations (where contractors cause damage on our property) so we can turn it in immediately and have them repair it, at their expense.** President South added that Cynthia is happy to report anything; she is terrific. However, her eyes can't be on every inch of the property every day.

Homeowner Comment: I thought I saw notes about pond dredging being discussed this evening. President South stated that the board had discussed this and would share it at appropriate times.

Contract Labor Repair and Maintenance – John Clock added that The Tiehen Group does hire maintenance people to do things Bill can't do, from time to time.

Homeowner Comment: Sidewalks – Our sidewalks don't get cleared in bad weather. I miss that.

John Clock– everything can be done as long as you don't care to pay for the additional expenses. Virtually, every HOA in KC uses the 2 inch guide as the standard; I even have 3 properties in Johnson County that don't clear until 3 inches. Treating ice is labor intensive/expensive and hard on the concrete. We don't want anyone slipping and falling, either. Recent ice event – they put ice melt on roadways, sidewalks, and steps. John added that in all of Tiehen Group properties he manages Tomahawk Creek is the only one putting ice melt on the sidewalks.

President South then asked if there were any other questions about the budget?

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She then called for a motion to approve the proposed 2008 budget. Ken Patrick made the motion and a homeowner seconded the motion; it unanimously passed.

Pond dredging issue – President South explained that Cynthia had received several requests to get the sandbar out of the pond. The board has received three bids (ranging from \$85,000 - \$141,000). She stated that The Tiehen Group is in the process of getting a fourth bid. Obviously, the money isn't in the budget.

A homeowner asked why the HOA would consider pond dredging.

In order to dredge the pond, you drain the pond, scoop it out and refill it. It has been filling in, because Tomahawk Creek empties into this pond. It was dredged in 2002 or 2003; it will need to be done on somewhat of a regular basis. From various vendors; the shape of the pond is the problem; they have to go down a hill at the back of property. The work is labor intensive to bring in equipment and hauling out all of the muck; they can't have too much or they damage the streets; so they make multiple trips.

Homeowner Question: Isn't there any city obligation? President South reported that no, we've looked into this and it is our problem. The pond belongs to Tomahawk Creek Condominiums.

Homeowner Comment: I live at Building 26A; I bought because it looks at the water. The fact that it is an open sewer in the summer time affects the value of my condo unit. It gets worse each summer. She reported that homeowners wouldn't believe the amount of trash that flows in each time we have a heavy rain, and that erosion along the shoreline is visible. It is a growing problem that will have to be addressed at some time.

President South added that the high bid was to build a retaining wall to help with the erosion issue and that the board would be looking into this issue. She also stated that Sunrise Assisted Living facility, up the hill, had created some problems and *had paid to clean up some of the trash* last year.

Homeowner Comment: This is an ongoing problem – we will have to explore our options. Ken Patrick added that this is a retention pond, and that, at the time our complex was built, it was in the agreement that we have the retention pond. The City required the retention pond because blacktop parking lot limits ability of ground to control water.

John Clock added that the ponds and private streets are probably two of the most expensive things for condominium associations. President South stated that the Board solicited homeowners' help/suggestions, etc.

Homeowner Comment: Algae is still a problem. John Clock stated that this is partially due to the shallowness of the pond and that it was a necessary evil until we decide how to fund dredging the pond. President South added that the Board appreciates the situation

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for homeowners living near these areas. The pond's rock base was discussed because it only allows the dredging to go down about five feet each time.

Homeowner Question: If we don't have dues increases; have we considered assessments?

Judy Brewster, a board member, said she had just figured that with 356 units, if each was assessed at \$200/unit it would be \$71,000. During the termite assessment, the amount was \$100 something, per size of unit. We raised \$55,000.

President South said that the board had been trying to do everything they could to eliminate raising HOA dues; realizing that some people were on pretty tight budgets.

Homeowner Comment: We just want to be aware and thinking about these issues. The properties to the west have been developed; they've put in their channel. There might be a possibility of getting people to the west to share with some of the expenses.

President South asked if there were any other comments concerning the pond issues? There were no additional comments.

Cynthia's Property Report:

Reminder- If you go out of town; there is a 50 degree minimum, so we don't have frozen pipes. If you are out of town and realize that you failed to raise the temperature, you could call in and give me permission to go in and change the thermostat. President South read the Declaration Restriction (11 (o)).

Committee Reports: None

President South made a couple of Announcements:

1- some people showed an interest in recycling across the complex; we looked into it and found that it would be cost prohibitive, \$700/month. There is a recycling at 119th and Hardy (paper, plastic, glass, practically everything). If interested and have questions, contact the City of Overland Park.

2- Trash compactor – we aren't to leave big items, mattresses, box springs. We continue to have homeowners not breaking down boxes. If you don't put things in the compactor, then the next person thinks they can't put anything in; it keeps others from reaching the compactor. Issue - unsightly; costs money to remove it; can suffer a fine from the city. We ask that you be mindful of the issue.

We sponsor two big dumpster weekends (fall and spring) so homeowners have two opportunities per year to get rid of larger items.

Are there any other announcements, committee reports, or suggestions?

Homeowner Comment: The button in by the compactor it is supposed to take the trash down. I pushed it and nothing happened, but a noise. Cynthia commented that in that

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case, the machine was jammed. Again, it is important for homeowners to report problems across the complex.

President South: **Revisions of Declarations and By-Laws** – you’ve seen these posted, and information on how to get a copy.

Propositions: There isn’t a place for your unit number. Write your building and unit number at the top; to be used as your vote is recorded. Each of you should have two pages of corrections, based on Nov. 15th Meeting (pages 7 and 18), a sheet of paper addressing highlights of revisions, by page, for easy reference. If you don’t have these, you might want to pick them up.

President South then officially opened the floor to questions or discussion on any of the proposed revisions.

Ken Patrick, a board member, stated that he had some comments he wished to make. I will vote against the change in the documents; my reasons are that we started out going to do a major revision. Then the chaos on the board occurred; I suggested we bring it back and just remove all reference of the Pauls Corp., but not make any other changes in policy. Then once that was done, we could go back and do a more thorough review for revisions. Somehow, it got off track and the scope expanded. If we were going to change it, there are some things I’d like homeowners to consider.

I feel very good about the existing board; everyone has the best interest of the community at heart. I think everyone is in favor of a very open governance. All meetings are open to homeowners. We’ve had improvements; but this board won’t be in place all of the time. We don’t know who’ll come next. There are things regarding the budget, assessments – there is no regulation requiring a homeowner vote.

Page 10 of Declarations – to make and enforce reasonable rules and reasonable regulations (reasonable is stricken) if it was in there and then removed – it is a proactive that the board could make unreasonable. Now it doesn’t, so the board could make unreasonable decisions.

Page 12 – all leases must be in writing and submitted to the board. For approval – people have property rights –if you buy a condo and plan to live in it, but things change and you have to rent that unit. I want the community to have a certain amount of say in what can and can’t be done regarding leases. We’re moving on the edge of impending on homeowners’ rights. I am in favor of redoing the by-laws and declarations, but feel this isn’t the way.

John McKelvey –This is the first time I’ve heard of your objection.

Ken - Every time the by-laws have come up I’ve stated my objection.

John – I think you have some good points. I somehow missed it.

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Question from someone – garages (page 7 – see correction page) were replaced by driveways as limited common areas.

Judy Brewster - I won't tell you how I'd vote; what I did want to say is that I was on the Covenants Committee with Tom Scanlon, Linda South, and Judy Marcus. We worked on all of this each week for a long time. One thing I want you to consider is that we have several properties for sale here; when you give them an old booklet/old rules it is confusing. That is the part Ken, rightly so, thinks we should take out. Now, we need to have it adjusted to more conform to what our community wants.

The board over the past – we've been on a learning curve. We've gotten input from the community over many of the issues. I feel that with my experience I know what the community has said they want. I feel it is a good document; there are ways of changing it. As time goes on, people can write in and help us change things, as needed. The community will *always* have a vote on how the governing documents are changed. This has been at least a three year work in progress. I'd like to see it pass. We have to have some kind of guidelines; units for sale will have a harder time being sold.

Board has a positive outlook; we work hard (together) to serve the community. We want it to be the best. We worked hard on the proposed budget. Make your own decision.

Gayle Voyles, a board member, shared her memory of the lengthy proposed revisions process and reminded homeowners that these revisions had thoroughly been discussed by several board and committee volunteers and Howard Barewin, the HOA Attorney. His advice was an important part of the process because he was helping the board make sure the documents were looking out after the best interests of Tomahawk Creek Homeowners and were legal.

If they would not be approved at this time it would be necessary to engage the attorney a second time and incur the legal fees, *again*. The additional expense of printing and distributing the next set of proposed revisions should also be considered. She also stated that the community has had a hard time getting homeowners to serve on committees or to run for board positions, and that she thought it would be even harder to get people involved if the proposed revisions didn't pass, after all of the hard work of so many was not valued. She asked homeowners to seriously consider the process and the proposed revisions before they placed their votes.

President South then walked homeowners through the revisions:

Proposition #1 – Declarations approved as set forth

Page 7 – of that document – driveways are limited common areas

Proposition #2 – By-Laws

Proposition #3 – absentee ballot – anytime voting is taking place

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Detraction – if items are presented at the floor, during a meeting, you don't have the benefit of that information; only what had been sent out ahead of time.

Ken's question – If someone voted No on 1 and 2, and yes on #3. What would be the effect?

President South: 67% of community is required to amend the governing documents. If 67% voted to do that we are allowed to alter the documents and to file them at the courthouse, making the change official. That would be the process – no matter what we decide to amend. Copies would be distributed to all.

Each proposition stands alone.

Proposition 4: Shall the Bylaws of Tomahawk Creek Article II - change Annual meeting to not less than 45 nor more than one hundred twenty days AFTER the end of the Association's fiscal year (Dec. 31st) on a day and at an hour set by the Board.

Linda South made an announcement at 8:30 PM that the Nominating Committee declared that we have a quorum for the meeting and the election can take place, and announced the candidates had been elected.

Proposition #5: Storm doors on front doors, of the same style and manner as for those approved for the back doors of units. You fill out an improvement application; it goes to the Architectural Standards Committee; they review and make their recommendation to the Board. You pay for it *if* it is approved.

Homeowner Question: Wasn't it brought up that it was either all or none, for uniformity?

Ken Patrick: We have voted; it passed both times, but we didn't have enough people involved in the vote. Now, it is a yes or no vote. I am glad that you explained that.

On Proposition 3: majority. I thought we were voting to reduce the percentage required to amend the governing documents. President South replied that the covenants committee and board members didn't feel comfortable making that revision an option.

John McKelvey – By the way, the price of storm and screen doors has gone up \$100, since people originally wanted them.

President South asked if there were other questions or comments. There were none, so she instructed homeowners to take their proposition pages, write their unit number and letter on the top, and to vote. She added that anyone having a proxy should attach the proxy with the form.

President South: I'd like to thank all of the committee members who have worked to support this community:

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Architectural Standards Committee
Covenants Committee
Nominating Committee
Social Committee
Technology Committee

She then urged homeowners to let Cynthia know if they were interested in serving on a committee.

Homeowner Comment: On the storm doors issue, if it is already approved why would a homeowner still have to submit an application?

President South: This helps the owner know what the guidelines are; same goes for window tinting. The Architectural Standards Committee has guidelines/standards for homeowners to follow.

President South: Is there any old business homeowners would like to discuss?

Homeowner: The structure where I live, I feel is falling off the hill. It has shifted a lot.

President South: Building 18 – The board talked about that tonight. We're gathering more information and are working on this issue.

Homeowner Question: Is this your last night?

President South: Yes, it is my last night.

Homeowner Comment: Thank you, Linda.

President South: It has been an interesting two years. It has been my pleasure to serve on the Covenants Committee and on the Board.

This business meeting stands adjourned (8:40 PM).

Respectfully Submitted,
Gayle Voyles,
TC HOA Secretary and Treasurer

Discussions After the Meeting:

Mike McGrew – unofficial suggestions for improvements for the pond – as a homeowner.

Two things – one you are probably going to have to dredge the pond. The real issue is how to stop the problem from re-developing again, or as bad. He added that with the high speed of water; suspend and filtrate solids; only in high storm events you'd have problems, of this magnitude. City of KCMO has been installing rain gardens– flat area or

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steeper area – incorporate plants that like storm events and they grow a little higher and you mow around them. Let nature help with the problem. Community groups – Eagle badge, etc. Rain Garden – Ginny Moore’s Association – Matching our project up with students/school project.

Homeowner’s Suggestion:

Three things to review:

Owners expectations?

Overall maintenance budget?

How are we using the site? Programming – people want to access homes

Maybe not mow the steep hills; could you do other things to reduce some of the mowing. Prioritize projects.

Does our irrigation system allow for a rain sensor? Probably not – our system is old.

Could we buy a rain sensor?

Additional Note: While President South’s daughter, who performs the reclamation of land for a mining company in Florida, was visiting during the holidays and indicated that the pond should be dredged, but the real problem was that where the water outflows from the pond (over the rock/concrete spillway and on the creek) it is too high and the water cannot properly drain fast enough which creates the build-up of silt. Also, there is too much vegetation growing in the spillway to allow adequate water flow out of the pond.