

## TALLAVANA HOMEOWNERS' ASSOCIATION, INC.

The Annual membership meeting of the Tallavana Homeowners' Association, Inc. was held on Saturday, January 29, 2005 at the Tallavana Christian School gymnasium.

Board of Directors present: Jean Wood, Tom Scott, Kimsey Helms, Don Magruder and Joe Smyth

Absent: Tommy Baker and Linda Ortiz

President, Jean Wood, called the 2005 Annual Membership meeting to order at 10:09 a.m. The corporate secretary is recording for accuracy of the minutes. Richard and Deborah Connelly recording and videotaping. Jean thanked Tallavana Community Church for allowing us to meet in the gymnasium and reminded everyone that we are on church property and to conduct ourselves accordingly.

**A. Election of Chairperson:** President Jean Wood stated the first order of business was to elect a Chairperson for the meeting.

MARK PALMQUIST NOMINATED JEAN WOOD AS CHAIRPERSON FOR THE ANNUAL MEMBERSHIP MEETING. NOMINATION SECONDED BY DONNA JOHNSON. MARK PALMQUIST CALLED FOR NOMINATIONS TO BE CLOSED. MOTION CARRIED.

**B. Roll Call and Certifying of Proxies:** All the names of the members represented were called from the roll of the membership to be sure that everyone present registered. There were 61 member households represented and 36 proxies, total qualified for a quorum.

**C. Proof of Notice of Meeting:** Debbie Robinson, Corporate Secretary, stated the notice of the annual membership meeting was mailed to 304 members of record on January 11, 2005.

**D. Approval of Minutes of the 2004 Annual Membership Meeting:** A copy of the minutes for the 2004 Annual Membership Meeting was provided for each member present. There were no corrections or additions to the 2004 minutes.

MOTION BY TOM SCOTT THAT THE 2004 ANNUAL MEMBERSHIP MEETING MINUTES BE APPROVED AS WRITTEN. MOTION SECONDED BY ALYCE PARMER. MOTION CARRIED

### **E. Report of Officers and select Committees:**

#### **1. President's Report** – Jean Wood

Jean Wood stated that the Officers and Committee chairs would give specific reports and that their information would not be part of her report. Jean reported that much had been accomplished in 2004 and much of the work could not have been done without member volunteers. Considering all of the volunteer work, if the Association had to pay to have the same amount of work done, the assessment would be much higher. Jean thanked all of the volunteers.

The Board of Directors has worked diligently for the good of all Lake Tallavana. Jean Wood thanked exiting Board members Tommy Baker and Linda Ortiz. Tommy and Linda both served out their terms but will not be returning. Jean congratulated Linda and Lance Ortiz on the recent birth of their son.

Jean thanked Debbie Robinson, Corporation Secretary, Scott Ivy, Sheriff's Deputy and Billy Kemp, Wildlife officer for their continued good work for the community. Jean also thanked Marc Cocke with the mowing and whatever needs to be done, the Rawsthornes with the keeping of the pavilion area clean, and Linda Ortiz as web master for the Lake Tallavana web site.

Jean concluded by stating the Board of Directors welcomes all members to attend the Board of Directors meetings held on the second Tuesday of each month at 7:00 p.m., at the Havana Public Library.

Jean reminded the members that there are sign-up sheets for volunteers reminding them that our community needs everyone's help.

## **2. Legal Report** – Don Magruder

As the board member assigned as the “Legal Liaison,” Don reported that it is his responsibility to represent the Board of Directors in meetings with attorneys, attend court meetings and hearings, act as a two-way communication between attorneys and the Board and to make recommendations to the Board with respect to legal issues received from the attorneys and elsewhere.

During 2004, the Association was engaged in two court cases, one a case involving an easement dispute and another involving an alleged covenant dispute. Now, in January 2005, the long-standing easement dispute is being worked out by the attorneys in hopes of settlement without the need for a trial.

In the case of the covenant dispute, the Association is experiencing an attorney/client communication failure and the Association is involved in interviews seeking a new attorney for representation.

Some of the other legal issues Don handled during 2004 were:

- a. Coordinated with the developers and attorneys of the Quail Court and Enchanted Forest Development for a successful completion.
- b. Worked with representatives of Talquin Electric Co. on their tree-trimming project.
- c. Developed a policy for the Sheffield Nature Preserve and Oswald Point. Coordinated with Progress Energy Florida on removing dirt piles under the power lines across the Nature Preserve, thus avoiding a potential lawsuit.
- d. Represented the Association in the Magnolia Court Development project, which is on going at this time.
- e. Communicated new developments in Association law proposed and adopted by the Florida Legislature and drafted amended articles of incorporation to successfully implement the law.
- f. Processed local complaints and conflicts between members.

Don stated that our goals for 2005 were 1.) To arrive at a successful culmination of the easement dispute without the necessity of an expensive trial, 2.) To help officers, directors and members in revising outdated Association policies and procedures to conform with the newly adopted state law governing homeowners’ associations, and 3.) To attain improved progress in the covenant dispute leading to completion.

Don thanked the attending members for their interest in and support of their homeowners’ association.

## **3. Lake Management** – Tom Scott

At the beginning of 2004, the Lake Committee and Board, in conjunction with a consultant hired by the Board, were working on plans for a sediment-reduction pond in the ravine above the existing D-8 sediment pond. As it turned out, the Department of Environmental Protection was not in favor of a sediment-reduction pond in the ravine. Our consultant at that time was unresponsive to our requests to determine what we should do. The consultant was released and the Board hired Dr. Sean McGlynn of Tallahassee as a consultant on matters pertaining to the lake and its health. Dr. McGlynn is well known in this area as a lakes management biologist.

Dr. McGlynn and other specialists met with several Board members to determine what needed to be done to properly care for our lake. A number of projects are now in the planning stages.

First, Dr. McGlynn is applying for a DEP permit that will allow us to stabilize and restore the shoreline of the lake. The Board will be responsible for the stabilization of the common area shoreline and the individual homeowners will be responsible for stabilization and restoration of their property’s shoreline. Once the permit is in place, lake front homeowners included in the THA permit will be contacted concerning the restoration and stabilization effort. There is a meeting scheduled for February 12<sup>th</sup> at the pavilion to discuss this issue.

Second, the creek and ravine above the D-8 pond was inspected to determine what was needed to control sediment. It was determined that the sediment was not the result of erosion on THA property but that of an adjoining landowner. Dr. McGlynn is working with the landowner to obtain grant money to stabilize the eroding areas of his property that affects Lake Tallavana. It was also determined that some changes to the D-8 pond could aid in further sediment control.

Third, Dr. McGlynn will be working with the Lake Watch Group in the spring to begin an ambient

Minutes, Annual Membership Meeting, January 29, 2005

water-quality analysis program to access the overall health of the lake. Along with the water-quality analysis, a toxic algae analysis will be conducted.

Finally, our consultant will update the Lake Tallavana Management Plan. Fortunately, Dr. McGlynn was involved in writing the initial lake management plan for our lake and is already familiar with Lake Tallavana.

There was one German carp removal during 2004. A large number of carp were successfully removed and given to a local group for an assumed fish fry! During the carp removal, 6 large mouth bass of various sizes were kept and tested for mercury. The results of the mercury testing are not yet available.

The results of the annual fish survey were published in the winter 2004 newsletter. We will continue with the cormorant control.

**a. Lake Watch Report – Pat Powell**

Pat reported that Lake Watch is a program sponsored by the University of Florida. Tallavana has been in the program since 1991. The University has about 300 lakes in Florida that are tested and volunteers run this statewide program.

Pat stated that volunteer members of the Lake Watch committee go out on the lake every month to take water samples. The samples are then sent to the University and run through their lab. The lab sends a quarterly report and a report at the end of the year that covers all the data since Tallavana has been in the program. The lab checks for nitrogen, phosphorus, chlorophyll and water clarity. Since 1991, the water quality of Lake Tallavana has digressed. The cormorants are the biggest culprits for the rise in nitrogen levels and the increased number of homes and septic systems is also a contributor. In 1991 the visibility was at 4 ½ feet and in the last report, visibility was at 1 ½ feet.

Lake Watch program is free to the Association and gives us a good database for our lake.

Pat thanked the volunteers for their time.

**4. Roads, Grounds and Dam Maintenance – Kimsey Helms & Tom Scott**

The rainfall during 2004 was low to average with the exception for August with 12.7 inches.

This allowed less maintenance of the dirt roads due to decreased erosion problems and increase the amount of paving that was done later in the year. It also required only one clean out of the D-8 holding pond for the year.

Lake Tallavana was started in 1975 as a weekend retreat with only a few houses. It has grown to at least 250 houses occupied year round. Tallavana is now a large neighborhood with all the complexities involved with a development that is 30 years old. Some of the infrastructure is beginning to show it's age such as the culverts under the roads that were installed by the original developers. The Board contracted with DEC Engineering, Inc. to evaluate and make recommendations regarding the condition of the road culverts. Their report indicated that we have a total of 58 culverts of which 31 need to be replaced within the next ten years. DEC recommended that 19 of the 31 culverts be replaced within the next 5 years. The budget for dirt roads has been increased to include replacement of 6 culverts.

Volunteer workdays were held with some of the following projects being completed: pressure cleaning fishing docks, all picnic tables, and the pavilion; repainting the lettering on the signs (entrance, gate, boat ramp) and trimming vegetation at the pavilion and restrooms. The old wooden playground equipment was removed, the sandbox enlarged and new playground equipment erected. A wood fence was installed between the road and the playground as a protective barrier from the road.

In September, Florida was hit by four hurricanes that kept all of us busy preparing for the storms and cleaning up afterward. Kimsey and Tom thanked all the volunteers who helped their neighbors at that time.

The repaving of approx. 1.3 miles of Tallavana Trail, starting at Highway 12, was bid in November. The bid included some repairs to Deer Pass East and a culvert replacement. Peavy and Son Construction of Havana was the low bidder and started work in late November.

The mowing, tree trimming/removal and minor road maintenance work was bid out in December with only one bid being returned, that from Marc Cocke. The grounds maintenance includes mowing of the pavilion/dock area, dam and road shoulders about every two weeks during the growing season.

The proposed projects for 2005 are replacement of the restroom septic tank drain field, engineering

Minutes, Annual Membership Meeting, January 29, 2005

evaluation of the THA owned roads and drainage systems, improvements to the existing D-8 watershed, shoreline restoration along common grounds including the dam, repainting of the restroom and minor repairs to the pavilion. Erosion control structures are to be investigated and possibly built along our creeks and streams that feed Lake Tallavana.

If any member would like to participate in helping the neighborhood with some of these projects, please contact any Board Member to volunteer.

**5. Security and Gate** – Written by Tommy Baker, read by Joe Smyth

Tommy's report started with an apology for not being present at the Annual Meeting due to a new job that required weekend involvement. Tommy commented that there are several important issues on the agenda for this meeting and encouraged the members to support these much-needed changes that are necessary to maintain and operate this community.

Tommy also thanked the members of Tallavana Homeowners' Association for allowing him the opportunity to serve on the Board. He made new friendships and it was a pleasure working with the many residents that are involved in this community. Tommy stated that we are fortunate to have residents that provide many hours of volunteer service to make this a great place to live as the volunteers do task after task and are often not recognized for their efforts.

Tommy also thanked his fellow Board members for their support and effort. Tommy stated that the Board members serve diligently and struggle to represent the members' interest and do what is best for the neighborhood as a whole.

Tommy thanked Bill Oswald for his considerable effort and dedication in maintaining the gate as he spends many hours keeping the gate working and operating correctly. While most of the year went smoothly, there was a period of time when the gate would open at odd hours creating quite a challenge to pinpoint the problem and get it fixed.

The Board is in the process of developing a policy regarding when the gate will be opened, for what type of events, for how long, etc.

THA security staff is Scott Ivey and Billy Kemp. Scott is a deputy with Gadsden County Sheriff's Department and Billy is an officer with FWC. Scott and Billy work approximately 20 hours each per month patrolling the neighborhood, monitoring the gate, working traffic (speeding), doing house checks and monitoring the use of the lake. Both officers patrol at odd hours and it is not unusual to see them patrolling in the middle of the night or day. When monitoring the gate, cars with THA decals are waved through while cars without THA decals on the back of the rearview mirror are stopped.

THA residents are fortunate to have Scott and Billy working security for us. Scott is a resident of Tallavana and Billy's folks have property here so both officers are in the neighborhood both on and off duty. Please thank them for helping to keep Tallavana a safe and secure community.

**6. Member Relations & Communications** – Written by Linda Ortiz, read by Jean Wood**a. Volunteer Sign-up Sheets**

Linda first took a moment to thank all of our special volunteers. Volunteers are an integral part in running this association. Without our exceptional volunteers the Association would have to spend money to hire professionals to come in and do the tasks that in most cases we, the member volunteers can do. Volunteer projects that were tackled and accomplished in 2004 were: the signs at both entrances were painted to be more visible, the roofs on the entrance sign at Highway 12 and the gatehouse were replaced, the light was replaced and a bulletin board was installed at the Mason Drive entrance, the brick gate posts were pressure washed, and probably the most noticeable project was the removal of the old playground equipment and the installation of new playground equipment. Again, without our volunteers, these projects would not have been done or would have cost the membership to have the work done.

Linda asked the members to please take a moment to sign the volunteer sheets. Signing the sheet does not commit you to a full time volunteer position, but an indication that you are interested in donating some of your time to help out from time to time.

Minutes, Annual Membership Meeting, January 29, 2005**b. Welcome Committee** – Carolyn Palmquist

Carolyn Palmquist showed the bag that the Welcome Committee distributes to the new neighbors. The bag is white with blue handles and lettering. The newcomers receive information about the area, maps, Gadsden county information, Lake Tallavana information, coupons, and any other items the committee can find. Lake Tallavana mouse pad and note cards depicting scenes of Lake Tallavana are given to the newcomers and are available to the general membership for a small price. Carolyn reported that the committee made 14 visits in 2004. Visits are made to new neighbors who actually move in to the community. New members that purchase just a lot are not visited as some of them live out of state. Should the lot owner build and move in, they will be welcomed at that time. The Welcome Committee hosted a Newcomers Party in the spring that was well attended giving all residents a chance to meet the newcomers. It was difficult to find time in the Fall for a Newcomers Party due to the hurricanes.

Carolyn recognized the Welcome Committee: Eileen McMichael, Pat Powell, Linda Ortiz, Gary Robinson, Skip & Margaret Griep, Sue Poss, Darlene Evans, Donna Phillips and Carolyn Palmquist. Carolyn thanked the committee for their willingness to meet and greet the newcomers and for their time and food for the parties.

**c. Web-Site** – Written by Linda Ortiz, read by Jean Wood

The statistic numbers for the website activity is phenomenal and proves the validity of having the site. In 2004, the website received 4,367 visits. A typical visitor examined 10.07 documents before leaving the site. A typical visit lasted for approximately 2 minutes with the longest visit lasting for 86 minutes. This is an increase from 2003 in which the website received 1,739 visits. The site is continually updated with agendas, minutes, calendar items, photos and more. If you have suggestions, please let Linda know. The address is [www.laketallavana.com](http://www.laketallavana.com). Jean added that Linda would continue as the THA web master.

**d. Newsletter Committee** – Written by Linda Ortiz, read by Jean Wood

You've probably noticed the biggest change in the newsletter this year was its return to black and white format. To print the newsletter in color is expensive and was donated by me each month due to having access to a high quality color printer. Due to the loss of access to the color equipment, the newsletter returned to black and white. Although the newsletter committee has not had a formal committee meeting in 2004, Linda receives articles and input from several of the committee members and residents to help provide interesting content for the newsletter. If you would like to include an article or have a suggestion for an article please let Linda know – email at: [newsletter@laketallavana.com](mailto:newsletter@laketallavana.com).

Jean Wood took a moment to continue with a personal message from Linda thanking the membership for the opportunity to serve as a member of the Board of Directors. "As many of you know I found out I was pregnant in June of 2004 and just recently gave birth to my beautiful baby boy-Anthony Michael Ortiz. While I have enjoyed volunteering on various committees, serving on the Board and more recently as the Board Secretary, the time has come for me to step back and devote more of my time to my family. Therefore, I will not be running for my seat on the Board, however I would like to continue to serve the Association in the capacity of designer for the newsletter and webmaster. I wish my predecessor, the rest of the board members and the entire membership all the best."

**e. Social Committee** – Read by Jean Wood

Jill Taylor, Committee Chair, and her committee has done and continues to do a fantastic job of planning, organizing and presenting awesome social dinners at the pavilion each 4<sup>th</sup> of July and Christmas. The 4<sup>th</sup> of July celebration always culminates with a superb fireworks display and this year was no exception. Please note that while the budget for the Social Committee appears extravagant at just over \$2000, most of that was for the fireworks display. If you have any questions about specific budget figures please ask Debbie Robinson for the breakdown. In addition to the two social dinners, Jill and her committee provided lunches for volunteers at the "Community Work Days" – they fed as many as a dozen folks on those days.

Minutes, Annual Membership Meeting, January 29, 2005**f. ESO – Joe Smyth**

Last fall there was a group of neighbors that came together who were out and about to help the community and to be there should the weather turn for the worse. Joe Smyth asked those volunteers to stand and be recognized. Due to limited time and other considerations, Beth Harrer has relinquished her role as coordinator of the THA Emergency Support Organization. We would like to recognize Beth and thank her for her efforts during this last hurricane season.

The ESO would also like to acknowledge the assistance received from Gadsden County emergency services and sheriff's office during the 2004 hurricane season. Their help enabled some neighbors to have trees removed from their homes in an expeditious and safe manner. During the 2004 hurricane season, the ESO was activated and many of our neighbors participated in helping to patrol and protect our neighborhood. Telephone surveys were conducted prior to the storms to alert residents of the availability of assistance during the storms. Special attention was given to those having special needs such as medical conditions or mobility concerns. Residents were encouraged to make contact with their immediate neighbors and to get back in touch with them after the storms passed. There were several trees that blew down during the storms and ESO and other neighbors assisted those with immediate needs to remove the trees from their homes and/or driveways.

As previously mentioned, Beth Harrer stepped down and through a series of meetings with interested parties; Joe Smyth was asked to serve as coordinator. Joe has agreed to take this position and will be holding a planning/reorganization meeting this spring. Anyone interested in participating in the Emergency Support Organization is asked to contact Joe at 100 Tallavana Trail, 539-1233. Joe asked that if any member of the Association has one of the ESO radios, they should contact him. He would like to get a new inventory and ensure that all radios are in good working order before they are needed.

Joe reminded the membership that if there is an emergency and the ESO is activated, the ESO members could be identified by their red ball caps with ESO on them.

**g. Beautification Committee – Diane Sheffield**

The Beautification Committee made a butterfly garden at the pavilion area in 2004 and would like to increase its size in 2005. A stand with Purple Martin gourds was installed to attract Purple Martins that would hopefully cut into the mosquito population.

**h. Pavilion Reservations – Donna Johnson**

Donna reported that in 2004 the pavilion was reserved 13 times by members. For 11 reservations the refundable \$25 deposit was refunded to the members. There were 2 cases in which the pavilion area was not cleaned up and the refunds were used to hire someone to clean the area. Most reservations are made through our web site and this is Donna's preferred way the reservations are made, however, she will accept reservations by phone. A member's reservation is not confirmed until their \$25 deposit is received. When time permits, the reservation will be posted on the web calendar.

**7. Architectural Control Committee (ACC) – Mike Mapstone**

Mike reported that the ACC met nine times in 2004 and recommended the following approvals: 8 new homes (1 withdrawn), 3 carports, 1 dog pen, 2 color changes, 2 sunrooms, 1 deck, 1 concrete driveway, 2 tree removals (not including those for new homes), 1 new fence, 1 access drive, 1 porch, 1 retaining wall, 2 attached garages, and 1 swimming pool. The committee addressed concerns with aboveground pools. Mike thanked committee members Diane Sheffield, Pat Powell, Alyce Parmer, Virginia Everett, Kimsey Helms and Jim Lamm.

**8. 2004 Treasurer's Report – Debbie Robinson**

Debbie reported that total expenses for 2004 were \$165,324.25. The largest expenditure was for the repaving of over 1 mile of Tallavana Trail. Debbie explained that the total amount seen in the expense column for paved roads includes shoulder work, ditch clearing and tree clearing on any section of the paved road. The same with dirt roads; the total expense besides grading includes ditch work and tree clearing.

Minutes, Annual Membership Meeting, January 29, 2005

Reported income for 2004 is \$185,117.26 with 99% of budgeted income received. There were some past due accounts that we were able to collect in 2004.

The sinking fund balance at the beginning of 2004 was \$197,797.60, \$50,000 was transferred to checking, \$45,000 later deposited from checking, interest income of \$1,623.56, ending balance of \$194,421.16. The checking balance at the beginning of 2004 was \$5,571.15; balance as of 12/31/04 was \$28,740.60. Debbie explained that the ending balance for the checking account is higher than normal however due to upcoming expenses the first few weeks of January 2005, and therefore no funds were transferred to savings at the end of 2004. As the Association Corporate Secretary/Bookkeeper, Debbie will look into other avenues to earn more interest in the sinking fund while those monies are waiting to pay for upcoming projects as they are completed.

**9. Budget Review Committee – Don McEwen**

Don first stated the committee members: Roxann Dunn, Donna Johnson, Lance Ortiz, Skip Sheffield, Debbie Robinson and Don McEwen. The committee also invited the board members to the budget meetings for their knowledge of the month-to-month issues of the Association, their insights and plans. The budget is balanced for 2005 and for the next 10 years without an increase of assessments.

From today's previous reports, we heard that the infrastructures, the culverts, are showing signs of failure. According to the engineer's report it looks like there are 17 culverts that will need replacing within the next 5 years, 11 culverts within 10 years, with a total of 28 culverts needing replaced over a 10-year period. With the average replacement cost of approximately \$4000 per culvert, we are looking at additional costs that were not previously planned in the budget model. This situation has been taken into account as we looked into project expenses over the next 10 years. We did repave 1.4 miles of Tallavana Trail with a culvert replacement at the Route 12 entrance and replaced the playground equipment. While the 2004 budget was to include work on the D-8 pond, the work was not started in 2004, as time was lost in replacing the lake consultant.

The funds not spent in 2004 have been moved forward to the 2005 budget. The 2005 budget also includes replacing 6 culverts, replacing and increasing the drain field at the pavilion restrooms, modified lake management projects and the services of Debbie Robinson as a Corporate Secretary/Bookkeeper. The hours worked for the Association was becoming more than Debbie could handle while working a full time job as well so it was decided that Debbie would quit her full time job and contract her services for the Association. This being a favorable situation for the Board and for Debbie, the position was included in the budget. Less was spent in 2004 than what was budgeted but it was fortunate that we found out about the extra expenses in 2005 so that we could plan. The Budget Committee recommended the 2005 Budget with the assessments remaining at \$600 per member with total expenses at \$248,600. The Board of Directors adopted the 2005 Budget as recommended at the Jan. 11, 2005 Board Meeting.

Questions, answers and comments for Don McEwen:

Comment: Alyce Parmer commended Don McEwen for his planning and expertise on the stability of the assessments for Lake Tallavana.

Q. Question about the amount of legal fees budgeted for 2005?

A. The majority of legal fees in the 2004 Budget were not spent due to situations with the attorneys on both sides. There were some unforeseeable delays. It is hopeful that the legal issues will be resolved and the amount budgeted for 2005 is not needed. The Association has a legal sinking fund for emergency use.

Q. Why does the membership not get to vote on the increase of assessments or the budget?

A. After several homeowners' associations went bankrupt due to the homeowners continually voting down any increase in assessments, the state put in place the statutes and laws establishing the Board of Directors the fiscal responsibility for the homeowners' associations.

Q. Why is there such a huge difference in the Lake restoration expenses for 2004 at \$3300 and the budgeted amount for 2005 at \$80,480? Would it not be better to get the DEP permits first then budget the amounts needed?

A. By Jean Wood – With the needed changes of lake consultants, and the rejections of our D-8 plans by DEP, it has been very hard to determine what the expenses for this next year are going to be. We have had to

Minutes, Annual Membership Meeting, January 29, 2005

change our focus and the shoreline restoration is now in the plans. The run-off Lake Tallavana receives in the D-8 area is coming from a farmer adjacent to Tallavana and there will be efforts to work with him to correct that problem. Don stated that there were smaller projects to equal \$80,000 and not the entire budget amount to be spent on the D-8 pond. Funds not spent in 2004 were forwarded to 2005.

**F. Election of Directors**

**1. Nominating Committee Report** – Milton Wood, Chair

The Nominating Committee was: Doug Crawford, CeCe Smyth, Pat Powell, Bobby Boatright, Milton Wood and Alternate Ralph McCaskill . The committee nominated the following:

Mike Jefferis 3 year term

Mike Mapstone 3 year term

Joe Smyth 2 year term (to finish term of Donna Phillips position which began in 2004)

**2. Other Nominations**

Jean Wood stated that Joe Smyth has been nominated for a 2 year term then called for other nominations from the floor. There were no other nominations.

Jean Wood stated that Mike Jefferis has been nominated for a 3 year term then called for other nominations from the floor. There were no other nominations.

Jean Wood stated that Mike Mapstone has been nominated for a 3 year term then called for other nominations from the floor. There were no other nominations.

MOTION BY BILL WOOLERY TO ACCEPT THE SLATE OF OFFICERS AS NOMINATED. SECONDED BY MILTON WOOD. MOTION CARRIED.

**3. Voting** – No voting, slate of officers accepted as nominated.

**G. Old Business:** There was no Old Business.

**H. New Business:**

**1. Amendment to the Articles of Incorporation, Ballot No. 1**

Don - the membership is being asked to vote today to amend two items to the Articles of Incorporation of this Association and pointed out that the Board has not taken any position on these changes nor have they made any recommendations.

Don stated the rationale for the amendment as stated on Ballot #1. In 2004, the Florida State Legislature considered and adopted a comprehensive revision of the law affecting condominiums and homeowners' associations. In the new law, we were reminded that a homeowners' association has the right to expect all members to pay dues or assessments required for necessary maintenance and for the upkeep of the neighborhood. The Lake Tallavana community, being a private, restricted community, must maintain roads and drainage, keep the lake clean, pure and attractive and provide a common area for access to the lake and a space for all members to enjoy.

The new law, Chapter 2004-353, required that the governing documents must specifically authorize the board to place liens on property for failure to pay dues or assessments. Although this has been commonplace for years, the opinion of the Association's attorney was that the Association needed to add more specific authorization to avoid problems in the future and the proper way to do it is to add this amendment to the Articles of Incorporation.

Liens on property for delinquent dues come due when a lot is sold. This would guarantee to the Association that when the property is sold, the Association would receive payment for back dues and that the responsible homeowners would not have to carry the load for those unwilling to do their part. For those unable to pay because of temporary economic difficulty, the Board would still be able to negotiate an accommodating payment schedule.

Minutes, Annual Membership Meeting, January 29, 2005

On Sat, Jan. 22, there was an informational workshop for the membership to discuss the issues of the amendments to the Articles of Incorporation. As a result of the meeting, there were two suggested changes to the proposed amendment to Article II, Section 3, (d). The time allowed before unpaid dues become a lien should be changed from 6 months to 12 months. The last sentence pertaining to the privileges that will not be permitted for members in arrears should not exclude the use of the roads and thus add except roads to the proposed amendment. Ballots for the original proposed amendment, Ballot #1, were previously given to the members.

MOTION BY DON MAGRUDER THAT THE SUBSTITUTE AMENDMENT WITH THE PROPOSED CORRECTIONS BE CONSIDERED FOR ACTION BY THE BODY. SECONDED BY FRANK ELLZEY. MOTION CARRIED.

The substitute for Ballot #1 was distributed to the membership. The floor was then open for discussion:

Deborah Connelly – Opposed – Deborah began by stating that according to the Bylaws, the purpose of the annual meeting is to elect Directors and transact any other business authorized by the members. Deborah stated that she was not personally notified if she wanted to vote on the issues at this meeting. She also stated that she was not given proper notice of the annual meeting in which voting would take place. She said that these violations would be transcribed and given to her attorney for further mediation. Deborah quoted segments of the state statutes 617 and 720. She is opposed to the voting because she believes the Association is not following proper procedure.

Response by Don Magruder – The notice requirements that Deborah Connelly has brought for question were done in accordance with the new laws that supersede sections of previous statutes. The Association received a letter from the Connelly's attorney stating this issue of the improper notification of the voting to take place at the Annual Meeting would be included in the ongoing lawsuit between Connelly v THA. Don contacted our attorney, Jack Harnett, to discuss this issue. As it stands, the Association printed in the Fall newsletter on the front page that amendments to the Articles of Incorporation would be voted on at the Annual Meeting, the minutes of several board meetings prior to the Annual Meeting reflect discussion of the upcoming voting, sample ballots were mailed with the notice of the Annual Meeting and an informational workshop was held prior to the meeting, thus, giving the membership ample notification of the voting that is to take place today.

Alyce Parmer – In favor – As a member of this community, she is highly interested in the assessments remaining as low as possible. Alyce also stated that if you live in a community, you should support your community by paying your assessment. Those who choose not to pay their assessments put the rest of us in the position to have to pay for them.

Richard Connelly – Opposed – Richard stated that he is one of the members that have not paid his assessments because he is in litigation with the Association and was advised by his attorney to hold his dues in an escrow account. Richard said that this amendment gives the Board more power. He said there is a system in place to collect and that is small claims court.

Diane Sheffield – In favor – Diane stated that the existing state statutes and the new laws covering homeowners' associations have the same language concerning suspensions and fines for members breaking the rules of the common areas. The laws do not have language that a lien may be placed on the property for unpaid fines. The statutes and laws do give the association the authority to place a lien on a property stating, "assessments, if not paid by owner can result in a lien against the parcel." By voting in favor, the authority will be in writing in our governing documents.

Neil McDonald – Question – Which attorney is representing the Association in the Lincicome case?

Minutes, Annual Membership Meeting, January 29, 2005

Don Magruder answered; Jack Harnett. We will have new representation in the other case. Neal; Of the liens we currently have on file, will they be retro active or grand fathered in? Don; Should there be a problem with the existing liens, we may use the small claims approach to collect. Neal; Does the lien go against the house or the property? Don; The lien goes against the property, or real estate.

Linda Ritchie – In favor – Linda said that she works for a title insurance company and said that the 2004 laws were as much for realtors as the associations. Buyers were not being disclosed concerning if there was a neighborhood association, what the assessments were or what the restrictive covenants were. By law, the purchaser is now given a disclosure statement that says that membership into the association is mandatory and failure to pay your assessments may result in penalties and/or a lien. Linda said that the laws for associations have always given the associations the right to lien property for nonpayment of dues and adding that to our Articles of Incorporation while not necessary, it is good to disclose such information.

No one else came forward to speak. The membership was called to vote by ballot. Ballots were collected and counted. Donna Johnson and Marlene Porter tallied the ballots, Pat Powell witnessed. The final tally was 66 for, 11 against. President Jean Wood did not vote the 19 proxies that were previously assigned to her.

## **2. Amendment to the Articles of Incorporation, Ballot No. 2**

Don presented Ballot #2

MOTION BY DON MAGRUDER THAT THE BODY CONSIDER BALLOT #2 – TO SUSPEND, FOR A REASONABLE TIME, THE RIGHTS OF MEMBERS AND/OR LESSEES AND THEIR GUEST TO USE COMMON AREAS AND RECREATIONAL FACILITIES FOR VIOLATIONS OF RULES AND REGULATIONS REGARDING THE USE THEREOF, AND/OR TO LEVY FINES FOR VIOLATIONS OF RULES AND REGULATIONS REGARDING THE USE THEREOF IN ACCORDANCE WITH THE LAWS OF FLORIDA. SECONDED BY TOM SCOTT.

Don then gave the rationale to create a new item in Article II, Section 3: During the 2004 FL Legislative session, that body performed an extensive re-write of the laws governing condominiums and homeowners' associations. This new law authorized homeowners' associations to suspend use rights for violations of the governing documents and levy a \$100 fine with notice and opportunity to be heard by a committee before the fine or suspension can be imposed provided that the association's governing documents clearly provide for it. The governing documents are the covenants, the Articles of Incorporation and the bylaws. As a basic document, the Articles of Incorporation of an association contain all legal authorizations of the corporation, therefore, is the logical document for amendment number 2. The common areas or property are real estate within a community, which is owned or leased by an association or dedicated for use and maintenance by the association or its members. In Lake Tallavana, the common property consists of the roads, lake and recreation areas. The common areas are owned by the property owners within the Lake Tallavana community boundaries and are for the use and enjoyment of the property owners.

The need for this authority:

1. Many times, violations of homeowners' common property are not per se violations of general law, but are policies for the health, safety, welfare and enjoyment of that particular community. The police authorities cannot enforce those policies because the only jurisdiction that they have are laws adopted by the state or county governments. The residents are told that there is nothing that the sheriff can do to alleviate the situation. This has happened several times in this community.
2. The phrase "In accordance with the laws of Florida," which are in amendment number 3, refers to the following procedures that must be followed when suspensions or fines are contemplated.
  - a. Suspensions from use must be for a "reasonable time."
  - b. Fines may be levied but must be reasonable fines not to exceed \$100 per violation against

Minutes, Annual Membership Meeting, January 29, 2005

any member or any tenant, guest or invitee. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, but no fine shall exceed \$1000 in the aggregate.

- c. At least 14 days notice must be given to the person to be fined or suspended with an opportunity for a hearing before a committee of at least three members appointed by the Board who are not officers, directors or employees of the association or the close family relative of an officer, director or employee. If the committee does not approve a proposed fine or suspension it may not be imposed.
- d. Failure to pay dues or assessments or other charges is exempt from this section.
- e. Suspension of common area use rights shall not impair the right of an owner or tenant to have vehicular and pedestrian ingress to and egress from their lot, including the right to park.

Jean Wood called for questions and/or discussion:

Q. Richard Connelly asked if the addition to the Articles of Incorporation has been reviewed and approved by the Association attorney?

A. Don Magruder – Yes.

Comment: Alyce Parmer – It is the committee that is to make the decisions and not the Board.

Jean Wood confirmed that and said that no relatives of a Board member could be on the committee.

Q. Jim Crosier asked if he understood that this is not be used to collect on the liens?

A. Don Magruder – It is forbidden by law to use this to collect on liens.

Q. Neil McDonald asked if this was going to be used to force issues like motor homes and 5<sup>th</sup> wheelers that are not under cover and in violation of the covenants?

A. Jean Wood – This amendment to the Articles of Incorporation is for the common grounds only; the lake, pavilion, Sheffield Preserve, D-8 area.

Q. Tom Rawsthorne – How is this going to be enforced? What is to stop a member who lives on the lake from using the lake if they are suspended from use?

A. Jean Wood – The enforcement would first come from THA security. Don Magruder added that without the authority to suspend or fine, there would not be much we could do other than ask the individual to cease the violation. First there would be a suspension and then fines.

Q. Donna Johnson asked if the Association could get a restraining order on the person to reinforce their suspension of using the common areas?

A. Don Magruder – No.

Q. Richard Healy asked if for example, the Board was to set up a no fishing regulation for a certain time period and you were caught fishing during that time, is this when the suspension or fines would come in?

A. Don Magruder – Yes.

Comment: Mark Palmquist – The legislature had mandated the homeowners' associations' documents to give them power or control over the common areas. This item is being added to the Articles of Incorporation to allow the Association the ability to keep order in the common areas so that all members can enjoy the common areas.

FRANK ELLZEY CALLED THE QUESTION TO VOTE. SECONDED BY BILL WOLLERY. MOTION CARRIED.

Membership voted by ballot. Ballots were collected and tallied. Donna Johnson and Marlene Porter tallied the ballots, Pat Powell witnessed. The final tally was 61 for, 13 against. President Jean Wood did not vote the 19 proxies that were previously assigned to her.

Minutes, Annual Membership Meeting, January 29, 2005

**I. Questions and Answers:**

**Q.** Alyce Parmer asked whom to notify if the homeowner wants to be included on the shoreline restoration?

**A.** Jean Wood answered that she or Tom Scott would be able to help homeowners interested in shoreline restoration. Jean also reminded members of the meeting on Feb 12<sup>th</sup> regarding the shoreline restoration.

**Comment.** Richard Jones suggested conserving the shoreline by using carp traps.

**A.** Jean Wood mentioned that the carp we are dealing with are not grass carp and was not sure if the traps would work on German Carp.

There have been requests to lower the lake by slightly opening the gate valve. The gate valve was replaced a few years ago due to improper use. After contacting the manufacturer, Jean found out that the gate valve was designed to be open all the way or shut all the way. Opening the gate valve partway is a sure way to ruin it.

**Comments:** Debbie Robinson – After working a minimum of 40 hours a week full time and another 20 hours a week for THA, Debbie thanked the Board for contracting her services that she may devote more time to the Association. Debbie clarified her standing as a contract employee, that she was responsible for paying her Social Security and taxes. Debbie will be setting hours to be available to the members that they may come to the house to pay dues, pick up gate cards, auto/boat decals or to conduct any Association business. At the end of the driveway at 145 Honeysuckle Dr., there is a THA Drop Box where payments can be left or items picked up. Members may contact Debbie through the website. Debbie reminded the Board that she is here to assist in their positions but not to do their job! Debbie said that she is here for all of the Association members. Debbie will be updating member information and developing a database

Debbie is contracted to work at least 80 hours per month for the Association. She has been a bookkeeper for 30 years with 3 years experience in accounting with a large state association and feels qualified to be the Association bookkeeper. However, the Association uses Collins Accounting to back the bookkeeper keeping the same records that Debbie does. Before quarterly billings, both Debbie and the accountant's records must balance before invoices are sent out.

Debbie is looking forward to serving the Association.

**J. Adjournment of Meeting:** With no further business, meeting was adjourned at 12:15 p.m.

Respectfully submitted,

Debbie Robinson  
Corporate Secretary/Bookkeeper  
Tallavana Homeowners' Association