

**TALLAVANA HOMEOWNERS' ASSOCIATION, INC.**

Minutes of the monthly Board of Directors meeting held on July 13, 2004 in the meeting room of the Havana Library, Havana, Florida.

PRESENT: Jean Wood, Linda Ortiz, Donna Phillips, Don Magruder, Kimsey Helms and Tom Scott, Board members, Debbie Robinson, Secretary to the Association. See attached list of others in attendance.

ABSENT: Tommy Baker

The meeting called to order at 7:07 pm by President Jean Wood.

Meeting being recorded by Association Secretary for the purpose of accurate minutes.

**Approval of Agenda:**

Item "e", Record roundup was added to the agenda under Committee Reports: ACC.

MOTION BY KIMSEY HELMS, SECONDED BY TOM SCOTT, TO APPROVE THE AGENDA AS AMENDED. MOTION CARRIED.

**Approval/Corrections of June 2004 Minutes:**

MOTION BY DON MAGRUDER, SECONDED BY DONNA PHILLIPS, THAT THE MINUTES BE APPROVED AS CORRECTED. MOTION CARRIED. (Corrections consisted of grammatical/spelling errors.)

**Treasurer's Report:** Donna Phillips reported the total deposit for June was \$17,524.50, expenses of \$4,830.78, checking account balance is \$50,920.93, and the balance in the sinking fund is \$198,039.58. There were no large expenditures to report

MOTION TOM SCOTT, SECONDED BY KIMSEY HELMS, THAT THE TREASURER'S REPORT BE APPROVED AS READ. MOTION CARRIED.

**Correspondence/Phone Calls:**

1. Debbie Robinson received a phone call from member Beth Harrer to ask that the gate be opened on Saturday, June 17<sup>th</sup>, between 11:30am and 12:30pm to allow friends and family access to her home after Bob's funeral. Member Bob Harrer passed away on June 7<sup>th</sup>, 2004. Bob was the organizer of our ESO.
2. Don Magruder received a call from Jim Heidenrich and will cover in his legal report.
3. There was an e-mail received from Gayle Norris with questions concerning a sea wall due to the amount of erosion along the shoreline of her property. Kimsey polled the board and will be preparing a response. Included in Kimsey's response will be the statement that a permit from the FDEP is required. Kimsey suggested that he prepare a draft letter then send it to Don for his review. There was general consensus of the board that Mrs. Norris be sent an email stating that there will need to be FDEP and ACC approval and that a letter will follow to include more details.

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## BOARD REPORTS

**Legal:** Don Magruder:

A. Connelly case – Attorney Rob Maloney has filed the same motion for discovery of evidence with Connelly’s new attorney, H.B. Stivers, as with the previous attorney. Stivers’ response was that he is having difficulties getting discovery from the Connelly’s. The Connelly’s have been asked for proof of each of the approximate 200 covenant violations.

B. Lincicome case – On the small claims case, there was a motion of judgment for pleadings. It was our contention that Mrs. Lincicome was not a party to the small claims suit as her name did not appear on the request for the fence bids. Although the judge ruled that Mrs. Lincicome is not a party to the suit at this stage, the case still will go to trial.

C. Senate Bill 1184 was signed by the Governor on June 23, 2004. This Bill is now law, which will go in effect October 01, 2004. This law will have a huge affect on homeowners’ associations with sweeping changes. Don will try to have a report in the newsletter on some of the changes. One of items of the law requires the sellers to disclose all information pertaining to the homeowners’ association including dues, covenants, by-laws, etc. There is a sample disclosure form for the sellers that we will provide on our web site. This information needs to get to the community by October 1.

Another change the law states is that cases between the members and the association will go to mediation first. This is an attempt to lower the number of cases in court with settlements before they get to court.

This law amends both FL Statutes 617 and 720. The FL Statute 720 stays in place other than the areas covered by the new law, 2004-353. FL Statute 617 pertains to corporations, while FL Statute 720 and FL Law 2004-343 cover homeowners’ associations.

D. Don asked that the board be more considerate of the membership by contacting the members if they have an issue that is on the agenda and will be discussed at the board meeting. This will give the members the opportunity to attend the board meeting. There was general consensus among the board that there be an informal policy to call the members when their issue will be before the board. It was also agreed that the Debbie Robinson, Corporate Secretary, would make the calls.

E. At the June meeting, Don was asked what could be done concerning the ACC violation on the Harrell property as they are preparing to sell. Don reported that unless we had brought suit against them, the Association could do nothing. There is no transferring of violations to the new owners. However, the new owners could be made aware of the covenant violation at the time of closing. When Debbie is contacted by the closing company for dues information, she will include a statement that the Harrell property does have an unresolved covenant violation.

F. With the new state law, the association is to have a majority vote from the membership for the authorization to place liens on property for nonpayment of dues and to assess interest on past due accounts, and to set fines for covenant violations, etc. The ballot can be done by mail. All members will be informed via newsletter, web site, and bulletin board of the upcoming written vote. All wording on the ballot will be run passed our attorney prior to the mailing.

G. Don received a call from Jim Heidenrich today. Since Heidenrich’s work on the drainage of Magnolia Court, there have been considerable rains that have created additional drainage problems. Don

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told Jim of all the problems that have surfaced since the rains. Jim said he would send out Jackie Love to repair the damage and that would be it; he was not spending any more money. He also told Don that he would be deeding the road to the association. Don told Jim that the drainage was not acceptable. Jim was under the impression that Gadsden County had approved the road and drainage and that there was nothing more he would do. When first completed the county did come out to see the situation and gave suggestions but since it is a private road that was all they could do.

MOTION BY DON MAGRUDER, SECONDED BY KIMSEY HELMS THAT THEY DRAFT A LETTER TO HEIDENRICH STATING OUR CONCERNS ABOUT THE DRAINAGE SITUATION ON MAGNOLIA COURT AND THAT THE BOARD IS NOT WILLING TO ACCEPT THE DEED UNTIL THE DRAINAGE SITUATION IS CORRECTED. DON ALSO STATED THAT COPIES OF THE LETTER BE SENT TO ROB MALONEY, THE FDEP, TRACY SMITH WITH GADSDEN COUNTY AND THE OFFICE OF THE COUNTY CLERK. MOTION CARRIED.

H. Don is still investigating which state society or association that would be beneficial for our Association to join.

Lake Management: Reported by Jean Wood and Tom Scott:

The letters were sent to Helge Swanson and Craig McCammon as discussed at the June meeting. Helge's letter was sent Certified Mail and was not picked up until June 29<sup>th</sup>. Upon receipt of our letter, Craig McCammon called Jean with the following comments; 1.) There is no problem in changing consultants, 2.) The plan that Helge submitted was a plan for more nutrient removal than sediment removal, 3.) The deadline for our permit application was July 1 and needed more information before permit could be issued, and 4.) It was okay to withdraw our permit application till a future time. Jean e-mailed the board about her discussion with Craig with the majority of board members agreeing to withdraw the permit application. A letter to withdraw our permit application was drafted and hand delivered to Craig McCammon on June 29, 2004.

The response of the letter sent to Helge resulted in a box containing all of the work that Helge had done delivered to Jean.

Jean has been in communications with Sean McGlynn, candidate for our lake consultant. Sean would like to meet with the board as well as all volunteers involved with the lake. Jean would like to arrange for the board and all lake committees and volunteers to meet on July 21<sup>st</sup> at 7:00pm. The first choice of meeting places is the Library, then the community firehouse, and then the pavilion. Once a meeting room is established, a notice will be posted at the gate for the lake meeting.

There was general consensus that THA join the Florida Lakes Management Society providing the fee is not more that \$50.00. Tom Scott will proceed with association joining as long as the fees are less than the \$50.00 agreed to. If the amount exceeds \$50.00, Tom will bring the cost back to the board next meeting.

Tom Scott agreed that THA has made the right move to change consultants and to ask Sean McGlynn to possibly be our consultant.

Lake Watch – Pat Powell: Pat did not have a report but said that Lake Watch would be going out July 24<sup>th</sup>. Pat also mentioned that it would be a good idea to distribute fliers on the importance of cleaning your septic tack. Fliers will go out with the quarterly invoice mailing.

Security: Jean Wood to read report by Tommy Baker who was absent

Scott Ivey worked 20 hours on THA payroll and 20 hours in the area on duty with the Sheriff's

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Department. Scott did 55 house checks, 17 vehicle stops and 12 boat checks. No report from Billy Kemp as of this date.

Scott also worked on a Dirt Bike complaint but was unable to reach a resolution to this problem. This is a neighbor-to-neighbor covenant/rule issue, which can only be resolved between the neighbors.

**Gate:** The gate locks have been changed and Tommy will continue distributing keys so that all Board members and gate committee members have access to the control boxes.

There was an incident of a power outage and someone cut the lock to the control box to gain access through the gate. In the past, Bill Oswald would open the gate when the power was out for more than a few minutes. Tommy will continue working on volunteers to serve on the gate team that can open the gate during extended power outages.

**Roads, Grounds & Dam:** Kimsey Helms & Tom Scott

Kimsey reported that the dirt roads in particular have required material and maintenance due to the rains. Mowing is on a 2-week basis with a full mow every other time and a partial mow in between.

There was a situation at the July 4<sup>th</sup> social that indicated our septic system at the pavilion had been use to it's maximum capacity and then some. It was determined that it has been 2 ½ years since the last septic tank clean out. It was obvious on the 4<sup>th</sup> that the drain field was saturated between the heavy usage and the heavy rains just prior to the social. Kimsey will look into this situation further. There was further discussion about what the problem could be. If the tank does not need pumping at this time, then we will definitely have the septic tank pumped prior to next year's July 4<sup>th</sup> Social.

The playground is complete and was well received at the July 4<sup>th</sup> Social. The fence served multiple purposes as a barrier to traffic, a bench, and a table. At the June meeting, the board moved to build separate benches to set in concrete. The volunteer work crew agreed to build the benches but would like to wait until cooler weather.

The D-8 retention pond still needs to be cleaned out. It is very close to being full and it will require being watched during the rains.

There was discussion about the street signs. The sample done for Magnolia Court is still not what we would like for all of Lake Tallavana. There was further discussion about other possibilities.

**Member Relations:** Reported by Linda Ortiz and Donna Phillips

The Website had 564 visits during June. A typical visitor examined 10 documents before leaving the site. A typical visit lasted for 1.62 minutes and the longest visit lasted for 86 minutes

The July 4<sup>th</sup> social was a great success. We cooked and served 200 hamburgers and 100 hotdogs with no leftovers! The fireworks were the best ever!

Deadline for the Fall Edition of the newsletter is August 15<sup>th</sup>.

## COMMITTEE REPORTS

**ACC:** Reported by Mike Mapstone

ACC meeting held on July 8th, following items were approved by ACC for board approval:

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- a-1. Robert & Kathy Bailey, 4245 Tallavana Trail, submittal for 21' X 24' Sunroom. All exterior will match existing building.
- a-2. Dr. & Mrs. Ivan B. Roberts, 3565 Tallavana Trail, submittal for 14' X 32' in-ground pool. Previously approved fence of 4' will be changed to 6'.
- a-3. Adrian & Avondika Cherry, lot at 666 Mason Drive, submittal for 1800 sq. ft. house. Clearing is not to encroach 30' buffers front or 10' side buffers. All materials and color ACC approved. (Note: There has yet to be notification to the Association that the Cherry's have purchased a lot on Mason Drive.)
- a-4. E.J. Chester, Mr., Magnolia Court, E-12, submittal of 20' right-of-way to provide access onto lot. Drive to be no more that 150' long. The board suggested that in the comment section of the ACC approval form that they inform the owner that Magnolia Court is not yet owned and maintained by the association.

MOTION BY DON MAGRUDER, SECONDED BY KIMSEY HELMS THAT THE RECOMMENDATIONS BY THE ACC BE APPROVED. MOTION CARRIED.

- b. The Harrell's are selling their home and as Don reported in Legal, there is nothing we can do concerning the covenant violation. From the Beckwith's, a letter to follow up with their phone call to Mike Mapstone is still expected.
- c. The ACC Building Permit – waiting for committee approval.
- d. "Understanding Section 200 Lake Tallavana Covenants, Rules & Regulations" needs addition revisions. The ACC is to draft a policy concerning aboveground pools and review the remaining policy for possible changes.
- e. ACC records need to be brought in for Linda Ortiz to begin scanning so that there is an electronic file of projects submitted and approved or rejected.

Details of approved items on file.

## OLD BUSINESS

1. Lake Tallavana roadwork – The next section that was originally proposed to be resurfaced would be 1 mile on Tallavana Trail starting where it was left off last time and continuing towards the dam with the hopes that even the road over the dam could be included. However, further observations in the condition of all of Tallavana Trail, the section at the gate appears to be the worst. Kimsey asked if the board would like to consider changing the section to be repaved and not continue with Tallavana Trail as originally proposed. There was further discussion of which part of Tallavana Trail should be resurfaced as well as which culverts need to be replaced. Some of the discussion covered the need for an engineer to tell which part of the road need to be resurfaced but with Kimsey's past experience and with the engineer's report on the culverts to replace it was decided that the board could save the money by not paying an engineer and use the budgeted amount for the road and culverts.

MOTION BY TOM SCOTT, SECONDED BY DON MAGRUDER THAT WE RESURFACE THE PORTION OF TALLAVANA TRAIL SHOWING THE MOST DETERIORATION AND THE AMOUNT OF THE ROAD REPAVED WILL BE DETERMINED BY THE NUMBER OF CULVERTS THAT HAVE TO BE REPLACED IN THAT SECTION AND KEEPING THE COST WITHIN THE BUDGETED AMOUNT OF \$40,000.00. KIMSEY IS TO RETAIN A BID FOR A CERTAIN AMOUNT OF ROAD TO BE PAVED WITH THE CULVERTS AND ADDITIONAL ROAD AS ALTERNATES. ALSO TO BE INCLUDED IN THE BID AS AN ALTERNATE IS THE REPLACEMENT OF THE BUMPS ON DEER PASS TO HUMPS MOTION CARRIED.

There was also discussion about the work to be done along the shoulders of Deer Pass.

## NEW BUSINESS

1. Dirt Bikes in Lake Tallavana – There has been a recent complaint between neighbors concerning the use of a dirt bike on the owner's property. The issue was reported to Scott Ivey as previously mentioned however; the issue is not under police jurisdiction. There was discussion on what the policies and covenants stated. Section 150 of the policies does prohibit off-highway vehicles, which includes dirt bikes, go-carts, all-terrain vehicles and any other motorized vehicle, which is not allowed to be operated on the public streets and highways of the State of Florida. The use of the off-highway vehicles are prohibited from all property owned by Tallavana Homeowners' Association including the common areas, roads, and power-line easements. Although annoying to the neighbors, there is no provision that prohibits the dirt bike on an individual's property. The board will not take action at this time and will leave this issue between the neighbors.

2. Mowing right-of-ways – There have been recent requests by a couple of homeowners that the right-of-way in front of their property not be mowed by Marc. The individual homeowners want to maintain the area themselves. After some legal research, Don Magruder summarized a recorded document providing the legal authority to THA to maintain the roads, drainage, and rights-of-way, etc, including mowing of the rights-of-way. Keeping in mind the wishes of the individual homeowners, Kimsey Helms and Marc Cocke will work with the homeowners who have asked that the right-of-way adjacent to their property not be mowed. However, should the homeowner allow the right-of-way to become overgrown and ceases to maintain the area, THA will resume maintenance and mowing.

With no further business, at 9:50 pm, Don Magruder moved to adjourn, Donna Phillips seconded.

Respectfully submitted,

Debra Robinson,  
Secretary to the Board

/dr