

**Tomball Hills Civic Association
Board Meeting
Held June 30, 2016
First Presbyterian Church on Hwy 249 at Heidi Lane
Tomball Hills Texas**

Notice of this scheduled Board meeting was posted online 72 hours prior to the meeting time and all Directors had been notified by email. Notification was sent by email to property owners who have provided an email address.

7:08 p.m. meeting called to order by Rhonda Bolton-Burke, President, Tomball Hills Civic Association.

Officers/Board Members in Attendance:

Rhonda Bolton-Burke
Danny Williams
Babe Ellis
Deborah Pursell
Dennis Bell

Deborah Pursell confirmed that a quorum was established.

Approximately 55 property owners in addition to Officers/Board members were in attendance.

The meeting was opened with a prayer offered by Danny Williams. A request for donations to the Church met with much approval.

Rhonda thanked Mrs. **Tabola** for placing the signs out for the meeting. Mrs. **Tabola** stated there is a sign gone missing. Several acknowledged seeing it missing.

Thanks also went to Suzanne Rodgers and Mrs. Anderson for putting notices on property owners doors in an effort to be sure everyone was aware of the meeting. Rhonda requested email addresses from those who would like to be notified by email of meetings.

Minutes of the last Board Meeting on May 23 were read and approved.

Rhonda stated the result of the lawsuit that was filed against her personally. The Court ruled to dismiss the case against her and found no wrongdoing on her part. The Attorney that represented Rhonda was not paid for by Tomball Hills Civic Club. As to the suite against Tomball Hills, Mr. Hunt, Attorney for Tomball Hills has also now filed for Summary Judgement and it is still pending at this time.

Rhonda introduced Mr. Hunt, Attorney for Tomball Hills and opened the floor for discussion and questions those present may have for Mr. Hunt. Rhonda also stated the floor was open for discussion on the possibility of a special assessment if the Summary Judgement was not in favor of Tomball Hills. If the case goes to trial this would require Attorney representation in court and continuing legal costs.

Mr. Hunt explained we had hoped to have a final decision from the court however with the upcoming holiday not much was moving forward in the court this week.

Mr. Hunt set out his view of the pending case. It appears the basic issue centers on the language in the Deed Restrictions related to unpaid annual dues. Mr Hunt stated that evidence will show that the title company was informed correctly and Mr Hildreth owed approx. \$694 in past dues that had not been paid. Mr. Hunt stated the language is clear and does state that Tomball Hills cannot place a lien on property for non-payment of dues. However, attorney for plaintiff, Mr. Beller, who was also present, has a different interpretation. He believes the language in the restrictions is not clear and forgives liens to foreclosing lenders. It was alleged Rhonda conveyed to the title company there was a lien on the property for non-payment of dues. Mr Hunt stated the evidence is to the contrary. The buyer of Mr. Hildreth's lot 54 stated if dues were owed he would be willing to pay them and close the sale. Mr. Hildreth would not agree to that proposal and the sale did not close. The buyer has agreed to testify to the facts. Mr. Hunt stated if the court agrees with our facts the judgement will be in favor of Tomball Hills.

Questions were raised concerning the ability of Mr. Hildreth to somehow financially bind individual properties. Mr. Hunt advised that under Texas law Tomball Hills Civic Association is a legal entity separate from individual property owners. There is nothing under this pending lawsuit that would inhibit the sale or bind any individual property.

Russell Hill asked what amount of money would be needed to defend this case in court. Mr. Hunt stated that perhaps between \$12,000-\$15,000. Better to plan on the high side of the estimate.

Pat Wilcox asked if the property owners would get to vote on the additional assessment. Answer was yes, however, this meeting was to inform the property owners of the situation and the vote for the special assessment would be taken if the case went to trial.

Sandy Anderson asked why the Board kept switching attorneys. Dennis replied to the question. The Board had asked prior attorneys to file for Summary Judgement and could not get them to file. They wanted to write up lengthy settlement agreements that the Board could not agree to. There were numerous discussions between prior Tomball Hills attorneys and opposing council concerning proposed settlements that could not be finalized. We finally found Mr. Hunt who has been willing to work with us and try to bring the case to a close.

Craig Gracey asked if attorney fees were recoverable. Mr. Hunt stated it was at the courts discretion. We are hopeful under the Summary Judgement.

Marshall Brown asked if a quorum of property owners votes for the special assessment is every property obligated to pay? Mr. Hunt stated is the special assessment was approved the assessment for each property would be treated as dues are treated. It would be an individual personal debt of the property owner.

Rhonda stated that Tomball Hills Civic Association could file in small claims court for debt owed by a property owner.

Russell Hill: What constitutes a quorum? Dennis replied 10%, there 154 **lots**.

Mr. Beller spoke on behalf of Mr. Hildreth stating there were several settlement offers. He stated this case would be for the benefit of all property owners not just Mr. Hildreth's benefit. Mr. Beller does not believe the language in the Deed Restrictions is clear because there is a requirement to pay dues, title companies will not close if dues are not paid. He stated Mr. Hildreth wanted a clear statement in writing and could not get it.

Mr. Hunt: There is a difference of opinion here and we will not litigate the case here tonight. That will be done at trial in court if necessary.

Ed McNutt: Is there a question as to the obligation to pay dues on restricted/unrestricted lots/portions of lots. Part of his lot is in the flood plan and he has paid his dues on his property.

Sandra Anderson asked if we had gotten anything from past legal fees paid, meaning what services? Can court decision be appealed? Mr. Hunt yes it could be appealed however it would not make good business sense.

Marshall Brown stated under Art.7.3 states it would take a vote of 75% of members to change the Restrictions if we wanted to accommodate demands of Hilltop Rentals plus legal costs. This does not make sense.

Pete Hildreth stated he wanted both attorneys to go in one of the back rooms and come to a settlement. Mr. Beller did not address a settlement. Mr. Hunt said the attorneys could of course talk but we were here tonight to bring forward the issue of a possible special assessment.

Dennis stated we have agreed to settle before due to legal advice and each time Pete Hildreth came back with more demands. This has gone on now for years. The demands of the settlement agreement reached a point where the Board does not have authority to agree.

Mr. McNutt asked if we needed to go to arbitration? Sandra Anderson stated it seemed to her that no matter what you call it the Board could place a lien on the property. Mr. Hunt re-stated, No, the Deed Restrictions clearly state there is no authority to place a lien on properties.

Rhonda noted that her email to the title company clearly stated the association has no lien authority and it included a copy of the provision of the restrictions that states the Association does not place liens on property. Failure to pay dues is a personal obligation, not a debt against property. If the suit goes to trial Stewart Title will be obligated to testify to those facts.

Kelly Jones said she was Treasurer for years. At that time generally 140 property owners paid their dues, which was less than \$5,000/yr. What is Tomball Hills position now? To collect the lawyer fees for court would be 3 years dues from each property owner. Does Mr. Hildreth pay dues? I never really knew what this was all about. You mean to tell me this is all over \$600.00 in back dues? Tomball Hills has paid thousands in attorney fees. This is silly.

Tom Borcky-Noblet stated Pete's lawsuit is about the right to apply liens and the Board was wrong. He has been on the Board before. Tom moved to the front row in front of Mr Hunt and held his hand up while Mr Hunt was addressing the membership.

Ed McNutt stands and begins summarizing the situation.

Too many people talking at the same time....

Rhonda moved on, trying to get finished. The attorneys fees are building.

Todd Rodgers stated "you", Rhonda, should not cut people off when they are speaking.

Suzanne Rodgers stated you need to be a leader.

Herb Henneke stated he has lived in Tomball Hills for 30 years and has a substantial investment in this neighborhood. I want to take care of it. I am concerned about eventually having commercial traffic from Hilltop Rentals through our neighborhood. We can't help the Toll road but we can keep commercial traffic from ruining our property values.

Gary Brautigam said we need agreement. The attorneys have agreed to talk. Let's let them get together.

Kelly Joes stated, I still don't know what the issue is. I do not feel informed.

Jo Free-Green – I have been a Realtor for 30 years. Title company will collect, lien or no lien. Mortgage company is only liable for assets after the sale it does not affect the debt. HOA can potentially take the matter to small claims court

Nelson Foerner agreed the lawyers need to talk and come back with a proposal.

Jo Free-Green – if we assess a special assessment for lawyer fees and do not win suite then what? Can there be punitive damages?

Mr. Hunt punitive damages in this type case is very hard to collect. Court would look at many things, time value of money, etc

Jody Hass brought up the subject of the toll road. Rhonda asked that that issue not be addressed at this time.

Tom Borcky-Noblet stood up to speak saying he works for the City public works and has some knowledge on the subject. Rhonda asked that he get with Jody Hass after the meeting regarding Toll Road issues.

Russell Hill – We must look down the road on this issue. Commercial traffic in our neighborhood would put our property in serious jeopardy. We need to collect the special assessment. I will personally loan money if that's what it takes to keep him out. If Mr. Hildreth can try to break the neighborhood he can do what he wants.

Other agreed that we will do what needs to be done to stop this.

Jim Wrentz asked if Mr Hildreth would put in writing that he will not use subdivision streets for commercial traffic? Mr Hildreth stated he had never done so and does not intend to.

Mr. Hildreth became very upset, cursed, and some people left the meeting. Mr Hildreth said he has been here for 25 years, he has never driven business traffic through the neighborhood. The only thing he fought over was a fence.

Mr Henneke refused to listen and walked outside.

Rhonda asked for order and argument to stop. Mr Heneke came back inside.

Ed McNutt- Need to contact our Representatives (State) and find a way to keep commercial traffic out of the neighborhood if the city doesn't.

Nelson Foerner stated there was a motion on the floor to have the attorneys meet now to find a solution to the issue at hand.

Rhonda called for a motion, Babe moved, Dennis seconded. All Board voted Aye. Motion carried.

Attorneys will not settle tonight but will talk and get back with more detail. They went to the back room.

Kelly Jones – How can we get copies of stuff, documents discussed? I feel uninformed.

Rhonda said the filings of the lawsuit are public record and available online at the Harris County Clerk's website. Tomball Hills organizational documents have been filed of record in Harris County and are posted on magprop.com website. If you are unable to access online and you would like a copy let us know and we will provide them for you. If you have email, you can be sent a link. Are there any other questions pertaining to this matter?

Marshall Brown – Is this an open forum? Will you entertain other topics?

For discussion purposes the stated reason for the meeting was closed. Rhonda called for a vote Dennis moved to close, Marshall 2nd and all voted Aye.

Marshall the noted that the Settlement agreement between Mr. Hildreth and the City of Tomball stated among other things 1) the activity on lots 44 & 45 would be grandfathered for past use, storage only and 2) there would be not access to Camille Dr or subdivision streets 3) lot 43 would remain residential only.

Now there is a drive on Lot43 to Hilltop Rentals. What are we doing about that?

Dennis stated that was an issue between Hilltop and the City of Tomball. The City is aware of the issue and is discussing with Mr. Hildreth.

To replace the missing sign Marilyn Tabola asked what to do. Dennis asked for a vote to replace the sign spending around \$25.00, Marshall 2nd and all voted "Aye"

Nelson moved to adjourn, Deborah 2nd and all present voted "Aye".

Meeting adjourned 8:40 p.m.

