

**TAHITIAN VILLAGE PROPERTY OWNERS' ASSOCIATION**

**P.O. BOX 636, BASTROP, TEXAS 78602, (512) 321-1145**

**TVPOA BOARD MEETING MINUTES (Amended)**

The regular board meeting of the Board of Directors of the Tahitian Village Property Owners' Association – 7:00 P.M., Tuesday, May 18, 2021

**Zoom Meeting-ONLINE**

**TVPOA Board Members Present:**

Jan Schwindt, David Carter, Erika McDonald, Stacy Savage, Jan Kuchel and Mary Jo Creamer

Board Members Absent: None

Association Manager: Amanda Homesley

Administrative Assistant: Tiffany Ferguson

**PUBLIC PRESENT:** Rachel Duer, Michele Plummer, Michele Anderson, Courtney Kellogg, Jo Egitto, Diana Hugo, Kris Cook, Mandy Cullar, Jennifer Livengood, Mary Asuncion, Rosie Garza, Becky Pigg, Amy Delgado, Ross Winton, Isabelle Zachary, Mary Wallenhorst

**MEETING CALLED TO ORDER:** Meeting was called to order at 7:01 p.m. by President Jan Schwindt.

**SECRETARY'S REPORT**

The minutes of the regular meeting of the Board held on April 20, 2021 were presented.

**Jan Kuchel made a motion to accept the April minutes as presented. Stacy Savage seconded the motion. A vote was taken, and the motion passed unanimously.**

**TREASURER'S REPORT**

1. Discussion and possible approval of April 2021 financials.

**David Carter made a motion to accept the April financials. Stacy Savage seconded the motion. A vote was taken, and the motion passed unanimously.**

2. Discussion and possible action on 2021 budget.

Erika McDonald stated the income is already 72.2% of what she budgeted originally, so she wants to increase that by ~\$29K to continue to balance the budget. This increase would allow for continuing professional education for both the board and staff, an increase in professional/legal fees, and community project line items and asked to amend the budget as proposed.

**Stacy Savage made a motion to accept the amended proposed budget as presented. Jan Kuchel seconded the motion. A vote was taken, 4 votes yes, 1 abstain, vote passed.**

**OPEN FORUM/PUBLIC COMMENT**

Jan Schwindt set ground rules to limit public comments to 3 minutes on items not already posted on the agenda. Throughout the agenda there will be no open comments and residents will need to put those in the chat box. We have also determined that if you unmute yourself, and do that three times, you will be removed from the meeting.

Courtney Kellogg stated I was told to email questions and I have been 100% stonewalled on every question and email I've sent.

The last questions proposed you're asking me publicly to email them to you and privately, you don't answer them. Right? I don't understand why you're not answering them.

Jan Schwindt stated that is not true. I have asked for you to email questions in the past and we have replied back to you with the answers.

They are never the answer you want to hear so you email them the same questions over and over again just in a different way. We have answered your email questions at various times.

You asked to be on the last agenda with multiple questions and several of those questions had already been answered. I sent you an email back answering the questions you sent.

CK- I am just going to cut you off because you are blatantly lying, honestly. I have to be direct because I only have 3 minutes. You are blatantly lying.

JS-No, I am not.

CK – The question I had up for you was, “Where in the deed can the Association fine or collect assessments like you are?” Correct? You are going to tell these members that you have answered this? That is an outright lie. The questions I have sent to you in the email you have not responded to. I don't understand what you're doing here. So, if you've already answered that question, let's announce it to the members real quick. Right? So, where is that information? Or, are you saying you've answered that?

JS-The information to what specifically?

CK-The specific questions I emailed to you received on April 23<sup>rd</sup>. You're going to tell me now that you've answered all those questions? Correct? None of those have been answered.

JS-I'm not sure which specific email you're referring to.

CK-The last email I sent to you after the previous month's agenda meeting. You told me to email you those questions and you said you would answer them. I emailed them to you. Tiffany said she received it the next day and nobody replied after that. None of those questions were answered.

CK-The first question was “Where in the deed, also known as the CCRs, is it established that the ACC and POA can require any of the following...” and I sent a list of all the things you tried to charge me for to disclose public records. The first thing – Transfer fees – “As currently Tahitian Village charges a \$225 transfer fee”, and it continues. You never answered that question and you would be outright lying if you said you did.

JS-So, the transfer fee is an administrative fee.

CK – Let me just correct you and you can tell them that you've never answered this question.

CK - Don't call me a liar.

JS-I have never called you a liar.

CK-You've said you answered this question and you haven't. I sent you questions that you never answered. I find it offensive that you come on here towards the membership and then want to tell them that you have. That's an unfair statement. Don't you agree? I wouldn't do that to you. Correct? So, you either answered it or you didn't. How can we grow from this?

JS – You've listed about 6 different questions here. Which would you like me to answer?

CK-The last agenda meeting you asked me to email you specific questions and you would reply to them. I sent you an email on 4/23, did you look at it?

JS – I did.

CK - Did you answer the questions?

JS-I don't remember which questions were asked on that email. I don't have it in front of me. There were several questions. We have answered several of your questions through about 50 email exchanges since January.

CK-Earlier you told everyone that you answered those questions and this makes me look like a liar. Do you understand how that is borderline slander? You're calling me a liar.

JS-I am not calling you a liar. I have never used those words.

CK-I'm saying what you're saying is untrue and a lie – I'm putting it out there and I'm saying it directly to you. Please confirm or deny if you have answered these questions. You're backtracking saying you don't remember what questions were in that email. What are we talking about? You draw it out for 2 months and then make it seem like someone is hassling you. Where is the transparency in this community? I don't understand what this is. You want people to be a part of this process, but I'm asking too many questions?

Erika McDonald-This topic of discussion is part of a pending lawsuit.

CK-That's another thing. We are throwing all this money out the window of something you know isn't right instead of looking for a solution from the community to move forward. When I asked you for processing fees for seeing books, records, and financials and redacting the "Member in Good Standing" list with addresses, that just completely unheard of. Why charge me \$60.00 when any other Associations just put the information out there?

JS-I don't know about other Associations, but we have been advised by our attorney, not to give out that "Member in Good Standing" list that was given to the Election Judge because of people's private information.

CK-Addresses, to be specific.

JS-Addresses. And other information.

CK-Where does the lawyer get that from? That is not confidential information under Texas law. There is a class action lawsuit – let's just put it out there - if you don't want to discuss it and want to throw lawyer at everything and fight this, it's a waste of money. Right? It's in your right to do that, but when I am asking to look at the "Member in Good Standing" list that you gave the Election Judge and to look at your books and records, such as receipts, you've completely stonewalled me. Right? You've made no accommodations to look at receipts and other financial information of the Association. In my email there were 4 questions asking about financial information. I wanted review a receipt, but you gave me something different. Who's keeping track of money here? About costs incurred? No one is being transparent. And you're charging for this when under Texas law it is not considered confidential. What is Mr. Bragg talking about? It seems you're paying Mr. Bragg to not be transparent with people. We could be cleaning up the neighborhood and working on the deed restrictions and sending out letters and moving forward.

JS-We are doing those things.

CK-You're not being transparent with the members.

JS-The things you just listed, we are already doing. We do ask the attorney for his legal opinion – that's what we pay him for. And, we gave you the receipt from the Post Office for mailing the ballots.

CK- That is an incorrect receipt from the Post Office.

JS-No, it was not the incorrect receipt. We sent you the receipt from mailing the ballots out.

CK-The Postal service confirmed it was not a recognizable receipt for a ballot mail out.

MaryJo Creamer-Did you ask the Post Office if they give us a receipt for the ballot mail out? They didn't. The receipt that you saw is what the Post Office required us to give them so they knew there were enough funds in the POA bank account to send the mailing in full. So, we had to give them the money and the only receipt we had to show was from the bank, which is what you received a copy of. That's why the Post Office employee did not recognize the receipt as one of their own and told you it would have looked different. We need to cut this off as this is over the 3 minutes.

CK-She could have mailed out 5 letters for all we know. When you mail a letter, you have access to that

information, so this is a red flag showing money flying out the window. Don't twist my words. Half of the membership didn't know about the CIA membership.

JS- It's called the CAI (Community Associations Institute) and we have had a membership with them for years.

CK-The question again, how many questions do I get as issues go along with my membership?

JS-It is not based on a number of questions.

JS-Have you received the letter from our attorney?

CK-No. Is there a letter that I should be expecting? Do you have a date?

JS-It was sent to your email address and to your mailing address. The letter is dated May 4<sup>th</sup> regarding your email from April 23<sup>rd</sup>.

CK-So you paid the attorney a \$275 fee to send me a letter? You pay him by the hour, correct? How much does it cost the Association to send a letter like this?

MJ-It wouldn't take an hour to write a letter.

CK-Well, that's what he would have charged me to have a meeting with him. So, what does the email say?

EM-It's a long agenda and we're well past 3 minutes.

JS-If I read this letter to you, we need to be done for this meeting.

Stacy Savage-Honestly, this is citizen's communication, you get 3 minutes. You've gotten a lot of feedback. The structure is you get 3 minutes, nobody from the board is supposed to respond, discuss, or vote on anything during this time. If you want engagement from the board you need to request to be on the agenda. You have had 25 minutes and it's not fair to the rest of the community

CK-I did ask to be on the agenda to get engagement and was denied and told I couldn't bring it up again.

SS-That is because we had already answered those questions in a previous meeting and by dozens of emails.

SS-We sent you a certified letter and an email from the attorney so be on the lookout. We are done with the conversation; we have so much more of the community agenda we need to move onto.

CK-Sounds like it. Sounds like you are really into involvement with accurate minutes. What does the Secretary even do? You're not going to write accurate minutes unless you're paid?

SS-Right now, I am not engaging with you on my duties as a board member. That's not what this discussion is about.

CK- You didn't answer any of my questions, again.

SS-Citizen's communication is where you get 3 minutes to espouse what you'd like to the board without engagement. It is your time to speak, not ours.

CK-So, where do we go to get answers? How do you get engagement?

SS-You have been on the agenda for months.

CK-I asked for discussion on 6 topics and was denied. Correct, Jan?

JS-Yes, you were denied.

CK-You answered my questions, but you didn't allow for discussion. Did you get that, Stacy?

SS-You are going in circles and I'm not following you.

JS-Your 6 questions were topics (inaudible)...I am not going to speak over you. Courtney... You gave me topics. I answered you directly from the Bylaws about those topics, so there was no reason to put them on the agenda.

CK-But, I wanted an open discussion about it.

JS-We gave the answers on those.

SS-Jan, do you want to read the certified letter from the lawyer?

JS-No, we'll send it to her again.

CK-Just to be clear, I wanted to be on the April agenda and I was denied. Then, I show up to the April agenda meeting and I'm supposedly allowed to talk. During my minutes I was muted repeatedly. I was interrupted several times by board members and yelled at.

SS-You were making false accusations and we have a right to defend ourselves. But, you're right, we should not have engaged with you at all during that time of citizen's communication.

CK-So, y'all did engage with me during my minutes? This is what you all do. You jump from topic to topic, then you mute me. This is a double standard approach.

SS-You were over your time and we actually gave you 6 minutes instead of the usual three because nobody else had a topic to speak on, but you abused that timeframe.

JS-There is no reason to argue this point anymore.

CK-This is the opposite of community involvement. This is why nobody wants to be part of the membership or involved with the Association. There's no transparency.

JS-There is transparency here.

Chat box comment from Jo Egitto: How does a person get a resolution to a question or a concern?

JS: We have stated to email the Board with your questions and we will send you the answers, which we have done on multiple occasions.

CK-That is a bald face lie. You have to acknowledge that your answers haven't been accurate. What I am being told, addresses are not confidential. Do you think the membership could save money on legal fees by just having open communication and conversations like this?

SS-We have.

JS- When we answer your questions and they are answers you don't agree with; you find a way to restate the questions again.

CK-Do you think it is unfair that you give answers that are inaccurate?

JS-I don't know which specific questions you're referring to and to my knowledge, every piece of information I have given you has been accurate.

CK-The new question I had about redacting information on the "Members in Good Standing" list, which I researched myself, from what I'm being told, addresses are not confidential. I ask this question and you tell me you're going to charge me a fee for non-confidential information. Most Associations follow Texas Property Code 209, which TVPOA does not because we do not collect "assessments", but by definition, assessments are "fines, fees and dues".

JS-We do not collect dues.

SS-Collecting assessments pays for community amenities, which we do not have.

CK-Sure. I understand that, but we collect fees, which are also considered assessments. I'm fine either way, but when you're taking members' money, you are legally liable to follow Texas law to protect members, to review financial information upon request. So you're doing both – you're collecting fees, but not following the law that comes with that. We don't adhere to 209 even though we collect fees. This is one of the questions nobody answered, so why am I sitting here 2 months later asking the same question?

Chat box comment from Michele Anderson: "The recent ruling by the court affirmed the POA's position regarding the property codes and which code applies here."

EM- I asked for clarification on this subject for the Bylaws Rewrite Committee and the Elections Committee. "In subdivisions, there are different types of assessments. We have Regular Assessments under Texas Property Code 204.0013 and Special Assessments under Texas Property Code 204.0014. The distinguishing fact about these 2 types of assessments is that they must be something each property owner must pay. In addition, regular and special assessments are limited to certain subdivisions based primarily on population, which do not include Tahitian Village. There is another assessment authorized

by the 2016 Bylaws establishing a collection, if necessary, to maintain the powers, duties, and authorities of the Association. With this, there is no requirement that every property owner pay, only for those to pay who engage in certain activities. For example, the POA established a transfer fee, not a resale certificate fee, which is charged each time the property changes hands. Considering the administrative duties required when properties change hands, it is undisputed the fee is reasonable.” So, the current Bylaws that state this were voted on by the membership.

CK-Right, the POA lawyer said we do not adhere to 204 because we don’t have a high enough population count, but if you look at 209, that’s the standard for other POAs. When you look it up at the SOS (Secretary of State) library, it’s textbook 209. It’s on our public request form.

EM-We don’t have to adhere because it’s in our Bylaws and it has already been set and voted on for approval by our members. Our assessments are not considered “Regular” or “Special” as defined by Texas Property Code 204.

CK-We don’t adhere to 204 and the lawyer confirmed that. So if you’re reading anything in 204, in that regard we may not adhere to. My question is we used to adhere to 209 before. Right? Before we supposedly stopped collecting dues. So we took out the collection of dues in the 1998 Bylaws for whatever reason.

EM-That’s because our deed restrictions were set to expire and that was the only way to get the members to renew them. The water district gave up charging “stand-by fees” and the POA gave up the right to charge “dues”.

SS-Again, just a reminder that we are currently in a lawsuit and shouldn’t be talking about this in a public forum.

JS-Thank you for the reminder.

CK-Forty minutes and no answers again. All day long.

SS-Thank you, Courtney.

JS-Thank you. Is there anyone else who has a public comment? Hearing none. can we please move on?

SS-We don’t need permission to move on.

## **OLD BUSINESS**

**1. ACC and Touring/Violation Report** – Report given by Amanda Homesley.

**2. Discussion and possible action on Bylaws and Election Committees.**

Erika McDonald stated that both the Election Review Committee and the Bylaws Committee have both gone through the first full round of revisions. The Election Committee has handed its recommendation to the Bylaws Committee for completed incorporation and we are on track for a July public forum. The Election Committee is moving on to revise the election documents.

The voting process is still in question. Do we change it completely where it is one person, one vote? This scenario would mean it doesn’t matter how many lots you own. But, we have run into vote splitting between spouses due to lot ownership, as well. Another proposition would be that everyone gets a vote, including business entities, but this worries me because of what happened in Pine Forest (unit 6) where the County and School District own lots of property there. I would like to pose these election processes to the membership and even get legal guidance. We’re not ready to incorporate any of this into the new Bylaws just yet without the public forums being held first.

Stacy Savage stated we will be cross referencing the full Bylaws revision document with the POA’s Certificate of Formation, as well, to ensure alignment.

Jan Schwandt asked if there is a plan on how the public forums will operate.

EM-We plan to have 2 public forums in July, but we are unsure if we should have an in-person meeting where we can hash out language together or if we will email it out to members and accept their revision suggestions digitally. Or, maybe the members submit their comments digitally and then we hold the in-person forums to discuss. We're going to have to weigh the pros and cons of each scenario to find the best fit.

JS-Anything else, Erika or Stacy?

SS – Yes, I also want to state how appreciative I am to the volunteers that have been sticking this out week after week with lots of passion and expertise brought to the table. This really does show how people do actually want to get involved and willingly put the time and effort in to assist in building up the community and focusing on policies that affect us all.

EM-Yes, and thank you to those who served previously on the 2020 Bylaws Committee and got this ball rolling.

Chat box comment from Stacy Savage: “Yes, Jo Egitto, Bruce Wilson, and Scott Ferguson on the 2020 Bylaws Committee helped kick this all off last summer!”

### **3. Discussion and possible action on continuing education.**

Erika McDonald states she would like to get POA staff and all board members to take a course through CAI (Community Associations Institute) for continuing education and best practices for Association management.

Erika McDonald stated the staff and board would have 4 months to complete this 14-hour course once they order the class and that it would benefit the staff's future career development, as well. We all want to be better at our jobs.

Jan Kuchel asked if we would be charged per class or is it a fee for the full course?

EM-If we all do the full course - for 8 people, it would be \$2,400 to complete and we would each receive the CAI Board Leader certificate. But, if we do the webinars, we can complete them on our own, but this lacks accountability.

JK-We can add steps for accountability among us.

EM-The follow up question is should all new staff and board members be required to take these courses? I would like for the staff to get started right away, but let's bring the board's participation back up on next month's agenda.

Stacy Savage clarified to meeting attendees that this is supplemental education and that POA staff already receive full training when they're on-boarded about how our community works through the Bylaws, Deed restrictions, ACC guidelines, permitting processes, etc.

**Erika McDonald made a motion to approve that both staff members begin the CAI training and certification process effective immediately. Stacy Savage seconded the motion. A vote was taken and the motion passed unanimously.**

### **4. Discussion and possible action on the shed variance.**

**This motion was discussed by email on 4/23/2020. Erika McDonald made a motion to approve the shed variance presented. Jan Schwindt seconded the motion. A vote was taken, and the motion passed unanimously.**

### **5. Discussion and community gardens update.**

Jan Kuchel has talked to a lot of people. The idea is to help beautify the area and building the core

team for educating people on the animals, pollinators, and the soil, etc. This community education and effort could then justify the manpower and get a property lot and the dollars needed to build out the gardens. The first step is to find members and volunteers and broaden that base. Pines and Prairies Trust could step in to help us and we could help them out. in return.

Chat box comment from Ross Winton: “Jan, you mentioned the Pines & Prairies property. Are you suggesting doing a native plant garden somewhere in Tahitian?”

JK-Yes, near Riverside there is a trail that is in desperate need of restoration. That would be my first choice to start. The trailhead is another option to begin.

Chat box comment from Michele Plummer: “Doesn’t that area flood often?”

JK- No. That’s the whole idea around educating volunteers and local gardeners who know how to put the correct plants that can survive inclement weather. That’s why we would be doing perennials and doing it at a higher altitude that is not in the floodplain.

Erika McDonald asked if the goal was to utilize land already owned by a non-profit?

JK-That’s a good place to get started so we don’t have to invest in properties. This is Tahitian Village property that was previously donated to this non-profit. If not, we could find someone who would be willing to donate their own property to Tahitian Village for these types of projects. Pines and Prairies would like to be involved if we do a vegetable garden, with the prerequisite that we would have to give at least half of the bounty harvested to local food bank organizations. This is a highly collaborative affair to assist, serve, and educate so residents can have the opportunity to take on leadership and ownership around this. Part of the vision is to have the POA invest money for upgrades, such as fencing, but let’s get the team built first before we start throwing money around.

## **NEW BUSINESS**

### **1. Discussion and possible action on July Clean Sweep event including date/site/signage.**

Amanda Homesley stated that the July 17<sup>th</sup> date is not a good date for Waste Connections. She proposed to change it to July 24<sup>th</sup>. She left a message for Mr. Fox in regards to moving the event to the right of the former Bassano’s restaurant location.

Jan Schwindt asked if we were no longer allowed to use the water district’s property normally used. AH-No, we just need a bigger space. The April Clean Sweep event was packed.

JS-Yes, and there were traffic issues, so this could alleviate that scenario so the road is not blocked.

AH-I will hold off to discuss signage until I hear back from him.

JS-Yes, signage will be critical because folks are used to going to the normal location. Please notify the community of the date change as soon as possible.

**Mary Jo Creamer made a motion to move the Clean Sweep from July 17<sup>th</sup> to July 24<sup>th</sup>. Erika McDonald seconded the motion. A vote was taken and the motion passed unanimously.**

**The POA entered an Executive Session at 8:14 p.m.**

**The POA reconvened in regular session at 8:43 p.m.**

**Erika McDonald made a motion to proceed with legal action on 3<sup>rd</sup> letters issued for violations. Stacy Savage seconded the motion. A vote was taken and the motion passed unanimously.**



**Erika McDonald made a motion to match the ACC amount for personnel issue. Jan Kuchel**



seconded the motion. A vote was taken and the motion passed unanimously.

David Carter made a motion to adjourn. Erika McDonald seconded the motion. A vote was taken and the motion passed unanimously.

Meeting was adjourned at 8:44 p.m.

	<u>6-21-21</u>
Stacy Savage – TVPOA Secretary	Date
	<u>6/22/2021</u>
Amanda Homesley – Association Manager	Date