

Tonto Hills Improvement Association

President: Michael Jans
Vice President: Nancy Nelson
Treasurer: Kathleen Kuchta
Secretary: Diana Cole

Board of Directors Meeting Minutes Wednesday, December 7, 2022 6:30

This meeting was conducted via Zoom webinar.

- I. Call to Order: 6:35 p.m.
- II. Roll Call
 - A. Present – Robyn Baker, Diana Cole, Jim Gibbs, Jacki Hoagland, Michael Jans, Kathleen Kuchta, Nancy Nelson, Bud Tolp
 - B. Absent - Ann Dichiara
 - C. Guests – 18 Tonto Hills owners
- III. Opening Remarks
 - A. Robyn Baker reported that as previously reported, oral arguments on the two motions for summary judgment were heard in September. The judge called counsel for all parties to a meeting in mid-November, to announce that he was having surgery and would be out for the remainder of the year. Therefore, the trial previously scheduled to start in January will be postponed. The judge will review and decide the motions for summary judgment in January, when he has recovered from surgery. In addition, the THIA has filed a timely response to the counter-claim against the THIA and Westhoff, et al. by Rent-Sell Real Estate, LLC. This claim is being litigated by an attorney appointed by THIA's insurance carrier, State Farm.
- IV. Open Forum
 - A. Steve Rensel asked what procedures the board follows if there is a violation of the Code of Conduct. He was referred to the Governing Documents published on the tontohills.net website.
- V. Consent Agenda Items:
 - A. Acceptance of Meeting Agenda of 12/7/22
 - i. Michael Jans requested the addition of two items: Lot #125 update on the county's decision regarding vehicles on the property, and Lot#125 complaint against Lot# 126
 - ii. Nancy Nelson made a motion to accept the agenda with those additions. Robyn Baker – 2nd. The motion passed.
 - B. Approval of Executive Session Minutes of 11/2/22
 - i. Kathleen Kuchta made a motion to accept. Nancy Nelson – 2nd. The motion passed.
 - A. Approval of Executive Session Minutes of 10/28/22
 - i. Nancy Nelson made a motion to accept. Robyn Baker – 2nd. The motion passed.
- VI. Reports
 - A. Treasurer's
 - i. Kathy Kuchta gave the Treasurer's Report as of November, 2022
 - a. All assessments have been paid except one lot. She and Michael Jans are working on placing a lien on this lot.

- b. Legal expenses ytd through November are \$38123 with \$3104 paid in November
- B. ACC
 - i. Nothing new to report on the update to the Addendum A revisions.
 - ii. Lot#78 has submitted final plans
 - iii. Lot#54 has submitted revised plans meeting the 50 foot setback requirements
 - iv. Complaint from Lot#125 against Lot#65 regarding the use of prefabricated panels was dismissed by the ACC as having no merit, since many prefabricated parts are used in the building of homes. This complaint is closed.
- C. Environmental and Road Safety
 - i. Robyn Baker reported that the MCDOT was shooting elevations of the roads and is in the process of contacting lot owners. They are asking lot owners what driveway materials are used on their lot and if there are any future projects coming up impacting the lot.
 - ii. Robyn will contact the county again for full road plans
 - iii. MCDOT was trimming trees in the roadway after receiving a request from Nancy Nelson. Robyn encourages everyone to use the NOTIFY MCDOT app to report road issues.
- D. Landscaping and Fire Mitigation
 - i. Jim Gibbs reported that 2 water leaks were repaired
- E. THVFD and Firewise
 - i. There is a drill on Saturday
- F. Welcome Wagon
 - i. Jacki Hoagland reported that an email address database check is in progress to be completed prior to printing the paper directories.
- VII. Unfinished Business
 - A. D of R Committee Update
 - i. Committee Chair, Rick Nelson gave an update. 5 survey questions have been developed and will be distributed via email, snail mail, and posting at the mailboxes to get maximum community input.
 - B. Lot #126 complaint against Lot#125 for vehicles.
 - i. The county sent Steve Rensel a letter stating that as of 11/18/22 his lot was in compliance.
 - ii. Bud Tolp made a motion that all members of the board available meet Saturday 12/9 at 9 am on Sombrero to assess if the lot is in compliance with DofR's now, take photos for the record, and inform Mr. Hellge as well. Nancy Nelson- 2nd. The motion passed 7-1.
 - C. Lot #108 complaint against Lot#230A; Lot #212B complaint against Lot#230A dated 3/22/22; Lot #212B complaint against Lot#230A dated 4/19/22; Lot #215A complaint against Lot#231F, 216, 230A, etc.

- i. These complaints are on hold pending the outcome of the Westhoff vRent-Sell lawsuit
- D. Lot #188 and Lot# 195 complaint against Lot#199 –
 - i. Michael Jans reported that the builder will take responsibility to clean up the trash and that active construction is ongoing, thus requiring a port-a-john.
 - ii. Diana Cole made a motion to close this complaint. Nancy Nelson-2nd. The motion passed.
- E. Lot #54 building without approved ACC plans and in violation of the 50 foot setbacks in P9 of the DofRs
 - i. Bud Tolp stated that the plans were resubmitted to the ACC meeting the 50 foot setback requirements.
 - ii. The date of re-submittal to the county for approval is not known
 - iii. The board agreed that this matter will be followed by the ACC going forward and taken off the board's agenda

VIII. New Business

A. Missing ACC Minutes

- i. Diana Cole reviewed the gap of minutes missing from our website which covers 10/15/15 to 8/14/18.
- ii. Previous ACC members for those years have been contacted and Robert Tattle has been able to provide 3 of the missing minutes. Charlie Civer and Mark LaLiberte also responded but did not have any of the minutes. Nick Tilley responded during the meeting that he could not locate any minutes.
- iii. Diana asked Steve Rensel again to review his files for the minutes as he was on the ACC all of the years in question. She will contact Corey Garrison again also.

B. Motion to amend Bylaws

- i. Nancy Nelson presented proposed changes to the Bylaws including the definition of a Member in Good Standing: A member is in good standing if all outstanding assessments for each lot or tract owned have been paid. Any outstanding violation notice(s) from the Board or violation(s) from the Maricopa County zoning must be resolved to be a member in good standing. See Para. 1.b of the D of R's; and revision of Executive Session options: Section 10 – Executive Session – removes items #3-#6 enhancing transparency
- ii. Diana Cole made a motion to accept the Bylaws revision as presented with the correction of one typo. Robyn Baker-2nd. The motion passed.

C. Request from Lot#212B for a 6 month extension for their refrigeration unit

- i. The original request was made on 9/23/2020 for a 3 month period of construction
- ii. Diana Cole made a motion that a letter be sent to Kym Westhoff that Ravensview is in violation of P 11 of the DofR's and she has 30 days to be in compliance. Nancy Nelson-2nd. The motion passed 7 for with 1 abstention.
- iii. Points/questions to include in the letter include:
 - a. Is construction on hold due to the litigation
 - b. What is the construction timeline?
 - c. How long has the unit been there and from what date?
 - d. What permits does she have from Maricopa County?

- D. Lot#80 complaint against Lot#65 that build has gone on for more than 18 months
 - i. The DofR's do not contain an 18 month stipulation
 - ii. The Board agreed that there was no violation of the DofR's
 - iii. *(Michael Jans found on 12/9/22 and reported to Lot #80 owner that according to Addendum A of the THIA Policies and Procedures "The Owner shall, in any event, complete the construction within eighteen (18) months after commencing construction except when such completion is impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, or natural calamities." The pandemic qualifies as such a 'calamity' as evidenced by the massive disruption in the normal supply chain.)*

- E. Lot#80 complaint against Lot#212B regarding the refrigeration unit.
 - i. See VIII C.

- F. AGM Announcement letter
 - i. The AGM will be held on March 22, 2023
 - ii. Nancy Nelson made a motion to approve the AGM Announcement letter. Kathy Kuchta-2nd. The motion passed.

- G. Lot#125 complaint against Lot#126 regarding the box trees installed on Lot #126. Steve Rensel claims that they devalue his property due to blocking his view, and that Mr Hellge's landscape lights violate Dark Skies.
 - i. Dark Skies is a county program. Mr. Rensel should discuss with Mr. Hellge and refer to the county as needed.
 - ii. The board will be meeting on Saturday am at 9am on Sombrero and will assess the issue of the box trees devaluing Lot #125.

- IX. Announcements
 - A. The next board meeting is 1/10/23 at 6:30PM via Zoom.
 - B. Future Board Agenda Items

- X. Adjournment–
 - A. Bud Tolp made a motion to adjourn. Robyn Baker-2nd. The meeting adjourned at 8:45 PM.

Approved Diana Cole 1-10-2023

Diana Cole, Secretary