

HOA SOUTHERN WOODS INC.

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Annual Members Meeting

Feb. 23 2010

Good Shepherd Lutheran Church

Members Present: Doug Dear (Lot 1,2,3), James Tamsitt (Lot 9), Gilbert & Sharon Maldonado (Lot 14), John & Sandra Judd (Lot 17, 18), Mahlin Musgrove (Lot 19), Brian & Elizabeth Vickery (Lot 20), Joe & Robyn Sandoval (Lot 21), Eddie Odell & Karen McBee (Lot 22), Paul Kaskie (Lot 23), Malcom & Deborah Harper (Lot 24), Kenneth & Maria Jowers (Lot 25), Mike & Susan McDonald (Lot 26), Patrick Wentworth (Lot 27), James Feddeler (Lot 28), Tim & Jennie White (Lot 30), Clark & Juliette Miller (Lot 31), Robert & Cindy Clevenger (Lot 32), James Weatherford (Lot 33), Richard Garrett (Lot 35), Rachael Martinez (Lot 37) and Alice Blucher (Lot 38) – Total 24 lots represented.

Members Absent: Stephen & Jennifer McCauley (Lot 4), Joe Landry (Lot 5), Todd Marti (Lot 6, 7), Donovan Ludwig (Lot 8), Michael Mainello & Lea Reiner (Lot 10), Rocky & Hermine Dugger (Lot 11), Mark & Kirby Hughes (Lot 12), Onesimo & Maria San Juan (Lot 13), Clay Huckaby (Lot 15), Linda Ping Zhang (Lot 16), Selina Vasquez-Mireles (Lot 29), Walter Mazur (Lot 34), Grant & Laura Buchanan (Lot 36), Richard Bustos (Lot 39), Alice Rodriguez & Tracy Manning (Lot 40) and Doug Walker (Lot 41).

Proxies: None

Activity prior to the start of the official meeting.

A uniformed Sheriff's Deputy was present at the door to the meeting room; Mr. Dear later informed the Board that Mr. Vickery has told him that he has arranged for the Deputy to be present at the meeting.

At 7:10 pm, before the majority of the Board members were present in the room, Mr. Vickery announced to the assembled members that he had received some information the day before, pertaining to the HOA. Mr. Vickery then read to the members a letter that he had written and addressed to the members, which stated that The Secretary of State for the State of Texas had forfeited the charter of the HOA on March 2008 because a Nonprofit Periodic Report, due in November 2007, had not been filed. The letter also contained Mr. Vickery's suggestions for what the HOA should do in this situation. Mr. Vickery's open letter to the HOA Members, together with an e-mail from Mr. Vickery's attorney, Chris Atwell, to Mr. Vickery, which e-mail is referenced in the letter, are attached to and incorporated into these minutes for reference. Mr. Vickery also passed out several copies of these items to the membership.

As Mr. Vickery stated in his letter to the members, he had informed Board members Rachael Martinez and Doug Dear of the Charter situation the previous day however he had not informed any of the other Board members of the problem and no other Board members knew of the problem until Mr. Vickery announced it to the Membership. On hearing about the problem Clark

Miller (President) noted that he had been told that the report needed be filed last year but that it had “fallen through the cracks” and that he had not filed it.

Mr. Dear then led a discussion among the homeowners as to how to proceed and several options were discussed. Mr. Vickery expressed his opinion that he felt the whole HOA was without any legal authority, that no one should pay their dues at this time, that the meeting should be suspended and that the Board should not make any decisions, including the election of the new Board. After further discussion among the members, two options were finally proposed, a) resolve the Charter situation first and then have another members’ meeting in a few weeks to conduct business and elect a new board at that time or, b) continue the meeting now, as originally intended, so that the members do not have to meet a second time. As part of this discussion Juliette Miller (member) told the meeting that, based on the documentation provided at the meeting by Mr. Vickery, she understood what the problem was with the HOA Charter and that, while the situation was regrettable, it should be easily remedied by filing various reports with government bodies; that she had done this type of work before and that she did not think it would be difficult to remedy. Ms. Miller offered to take care of the paperwork and stated that if the problem did turn out to be more complicated than she anticipated then she would report to the Board so that they could turn the matter over to the Home Owners Association’s attorney for resolution. James Feddeler (member) then proposed to the membership that we allow the Board and Ms. Miller two weeks to get the paperwork taken care of and, if the situation is not resolved by then the Association will be dissolved at that time. Clark Miller then asked the Members to vote on Mr. Feddeler’s proposal and also whether to allow Ms. Miller time to try and take care of the problem first rather than hand the problem directly over to the HOA attorney, which would be expensive. Members representing twenty (20) votes approved of this action; the motion was approved.

Doug Dear then made a motion that we follow through with the meeting agenda items at this time, but not vote on anything, other than the election of the new Board. Clark Miller 2nd the motion. Twenty-one homeowners voted yes, none opposed, Mr. Vickery abstained. Motion carried.

Official Meeting called to order – 7:30pm

1. Introductions:

- A. Clark introduced the current Board of Directors and the Officers - Clark Miller (President), Brian Vickery (Vice-President), Doug Dear, Paul Kaskie, Pat Wentworth (Treasurer) and Rachael Martinez (Secretary)
- B. Clark asked the homeowners to introduce themselves to everyone and say which lot they owned; he also gave a short history about the Southern Woods subdivision.
- C. Clark explained the various committees that are in effect and what has been done during the past year within the subdivision in regard to signs, landscaping, roads and the gate.

2. Approval of minutes/treasurer’s report can not be done at this time since the HOA is technically inactive

- A. Minutes -
- B. Treasurers Report -

3. Committee reports –

- A. Signs and lighting – Brian stated that no signs have been put up in the past year.

- B. **Gate** – Paul said the gate is working fine, has just had some maintenance done on it. The only issue recently has been with a trash company whose drivers have been turning the truck around in front of the gate and tearing up the front of Mr. Judd’s lot. Clark said he had given the gate code to the drivers and they still did not use it so he has spoken with some of the company offices and has requested that they direct their drivers to use the gate code instead of turning around.
- C. **Landscaping** – Pat stated that we are keeping up with the landscaping with the shrubs and tree trimming.
- D. **Subdivision Roads** – Clark explained that since the roads belong to the HOA it is our responsibility to maintain them and that his sons have been employed in the past year to maintain the road by cutting back the weeds on the edges of the roads and by filling the cracks.
- E. **Architectural Control** – HOA land and property status – Clark stated that that Ms. Rodriguez (Lot #40) and Mr. Walker (Lot #41) had made some requests to have some items placed put on their lots and their requests were approved.

4. **Old Business:**

- A. **Year end review** –
 - 1. Clark noted that his son Forrest has been doing some weed eating along the edges of the road since Sept. 2009.
 - 2. He also mentioned making some energy efficient changes around the subdivision, e.g. The sprinkler system at the front entrance could be solar panel battery operated and we could also consider having a solar panel for the gate. It would cost a little more now but will hopefully save us some money in the long run.
 - 3. The Board worked on the Bylaws and is still trying to update them.
 - 4. National Night Out –This was held at the Southern Drive Cul-de-Sac in October and we want to thank Paul Kaskie for his great cooking that evening and everyone that came out to participate and meet their neighbors. We had a good turn out.
- B. **1626 Road update** – Doug Dear volunteered to head this task last year and has attended some of the meeting held with TXDOT. He said that the road design has not really changed much, they’ve come up with some recommendations on where to channel the water a little better, and they’ve also talked about regulating the speed. Doug suggests they put in conduits underground and possibly put a stoplight later on. Environmental research is still being done regarding water runoff and noise, etc. At this time there is no money available to start working on I-45 so we don’t know when this work will begin. Doug would like other homeowners to contact him or be a part of the committee so that they can work together to get a better value for their properties if possible when the time comes.
- C. **Website** – Clark has taken some photos and input from members of the board on how we’d like to see the website set up or designed. Brian Vickery mentioned that his company can help with the website and it would not cost the HOA anything. Clark said we can present it to the new board and they can decide what to do about it.

5. **New Business:**

- A. **Financial Books Audit** – Clark said a review was done on our books and everything seems to be in good standing. Pat Wentworth, as Treasurer, has brought the books and other financial records to the meeting for review if anyone wants to see them.
- B. **Board Elections 2010** – The Board currently consists of seven members and all the seats are up for election at this meeting. There are nine nominees for the seven seats on the Board. Clark Miller asked the homeowners if they wanted to keep the Board at seven

members or change that number. Mahlin Musgrove made a motion to continue with seven seats on the Board. Jennie White 2nd the motion; the motion passed unanimously. There was a discussion about how to conduct the election. Mr. Vickery was of the opinion that our Covenants require that each member of the Board be elected by a majority of the members, in effect there would have to be seven separate elections. The members were vocal in their explanation that each member has always simply voted for the seven nominees that each member wanted to be on the Board and that the seven nominees with the most votes were then seated on the Board. There was general agreement that this was the method that the members wanted to continue to use and that they felt this method was in compliance with the HOA Covenants and Bylaws and was also appropriate for a small subdivision such as Southern Woods. Juliette Miller noted that this method of voting is called "a relative majority block vote" and she made a motion that we use this method to elect the new Board. Pam Garrett 2nd the motion. Paul Kaskie & Brian Vickery abstained from the vote and the motion passed.

The nominees are: Mahlin Musgrove, Clark Miller, Pat Wentworth, Richard Garrett, Doug Dear, Paul Kaskie, Brian Vickery, James Weatherford and Rachael Martinez. Juliette Miller was nominated but she declined to run for a position on the board. Each nominee was then asked to speak for a few minutes to tell the members about themselves and how/why they would like to serve on the HOA board.

The Secretary created a ballot that listed all nine nominees for the Board. Each member received one ballot for each lot that they owned and then marked on each ballot the seven different nominees of their choice by circling seven names on the list of nominees on the ballot. The ballots were then collected by the Secretary and the votes for each nominee were counted immediately, in the meeting room.

The votes were counted by Rachael Martinez (Secretary) with assistance from Jennie White and in the presence of the Sheriff's Deputy. A list of the all nominees was then written on a display board, together with the number of votes that each nominee received. The seven nominees who received the most votes were, in order of votes received, Mahlin Musgrove, Clark Miller, Pat Wentworth, Richard Garrett, Doug Dear, Paul Kaskie and Rachael Martinez. Doug Dear made a motion to accept the nominations and seat these members on the Board and Brian Vickery 2nd the motion; the motion passed unanimously.

Clark stated that he would like to meet with the new board members directly after the meeting to discuss setting up the first Board meeting, in March, to elect new officers and to accept the budget for this upcoming year. The meeting would be held provided that the Association's Charter issue has been resolved.

The Board decided to meet on March 9th, 6:30p at the Manchaca Fire Hall if the room is available.

Hearing no other discussion, Pat Wentworth made a motion to adjourn the meeting, Doug Dear 2nd the motion; motion carried. The meeting was adjourned at 8:50 pm.

Respectfully,
Rachael Martinez
Secretary for SWHOA

Brian Vickery
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512-291-1700

Homeowner's of Southern Woods
Buda, Texas

23 February 2010

Ladies and Gentlemen,

I regret to inform you that more than two years ago the Incorporation of the Home Owner's Association of Southern Woods was forfeit by the Secretary of State of the State of Texas for failing to file a Nonprofit Periodic report. According to state records, the registered agent, Patrick D. Wentworth, was notified on October 9th 2007 and November 9th 2007 at his current address.

The Secretary of State sent further notice of involuntary dissolution to the same address on March 12 2008. Our HOA and its corporate charter have been involuntarily dissolved.

I first learned of these facts yesterday, 22 February, 2010. I have discussed this matter with the Board Secretary, Rachael Martinez and Director Doug Dear yesterday. Neither they nor I have received any disclosures or had any knowledge regarding this matter prior to yesterday.

During the past two years, as Vice-President, I have attempted to consolidate our covenants, bylaws, procedures and records. I have edited and bound a collection of these documents entitled the Director's Atlas. At my own expense I engaged a real estate attorney named Christopher D. Atwell, P.C. of Kasling Hemphill Dolezal & Atwell in Austin to help weed through all the revisions and issues. He advised me last week to get a copy of the articles of incorporation as they supersede all other documents relating to HOA business. I contacted the Secretary of State's office yesterday, 22 February and was astonished to learn we had been dissolved.

This board has no authority to act; the HOA technically does not exist. All records and funds should be frozen and surrendered to the Board Secretary immediately. Please do not turn in dues or act on any directives issued by anyone claiming to represent the HOA. The only persons with any authority whatsoever at this time are the homeowners themselves. I visited personally with Chris Atwell yesterday. His recommendation is attached.

He recommends we form a very small committee of home owners and immediately engage an attorney to rectify these matters. He assures me that it will not take long or be very expensive. I am volunteering to cover this expense in hopes that we can move quickly and the HOA can reimburse me if they like once we are authorized to transact business again.

Once that is done, we should meet again; I would suggest six weeks from now to review the work done and start our HOA with a clean slate and a new board of directors. I would like to ask for two volunteers to serve on the committee that have not been directors of this HOA. Rachael Martinez, the Board secretary should also be on the committee to keep records according to legal counsel's recommendation. Thank you very much for your time.

Brian K. Vickery

Brian Vickery

From: Chris Atwell [cda@khdalaw.com]
Sent: Tuesday, February 23, 2010 4:13 PM
To: Brian Vickery
Subject: Southern Woods

Brian:

This will confirm that Southern Woods' authority to transact business was forfeited on November 9, 2007. Southern Woods' corporate charter was involuntarily dissolved by the Texas Secretary of State on March 12, 2008. Southern Woods' registered agent, Mr. Wentworth, was notified of both matters in writing according to the Texas Secretary of State's records. Southern Woods lacks any authority to conduct business at this time.

It is my strong recommendation that Southern Woods' members, directors, and officers take no action at the scheduled meeting. I further recommend that the homeowners authorize a small committee to immediately rectify the forfeiture and dissolution of Southern Woods. An attorney should be employed to facilitate this process. Southern Woods' members should also consider requiring all past and current board members to turn over all Southern Woods materials and information in their possession to the current Secretary. After these steps are taken, I recommend that Southern Woods hire an attorney to review, revise, and conform Southern Woods' articles of incorporation and bylaws in accordance with the membership's wishes. As we have discussed, there are conflicting provisions, ambiguities, and other problems in the current documents.

Doing anything else at this time, such as electing directors, approving minutes, passing resolutions, etc., is prohibited and asking for trouble when Southern Woods lacks authority to transact business

Christopher D. Atwell, P.C.

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