

**Tomahawk Creek Homes Association Meeting  
August 30, 2007**

**Participants:** Linda South, Jennifer Nearing, Gayle Voyles, Ken Patrick, Debra Smith, and approximately 50-60 homeowners and Debra's attorney.

The meeting was called to order by President South at 7:03 PM.

President South welcomed homeowners and stated that this was a Special Meeting called pursuant to the Bylaws. Article II, Section 2 was read: Special Meetings of the members for any purpose may be called, upon request of the members who have a right to vote,  $\frac{1}{4}$  of the total Association vote.

Article III, Section 6 was then read by President South: Removal of Members of the Board of Directors. At any regular or special meeting of the Association duly called, any member of the Board of Directors may be removed with or without cause by a majority of the total eligible Association vote represented in person, by proxy and a successor may then and there be elected to fill the vacancy thus created. Any director removal has been proposed by the members shall be given at least ten (10) days notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting.

Debra Smith acknowledged receipt of notice of this meeting on August 16, 2007 and that satisfies the notice requirement of this meeting.

President South then presented an outline of the procedures for the special meeting: brief re-cap of May 17<sup>th</sup> Meeting, speakers (each limited to five minutes each), introduction of nominees, any nominations from the floor, and ballots submitted.

Background information provided by President South:

In May, the remaining Directors brought to your attention their concern that Ms. Smith's actions were what the board considered conduct not becoming a board member. The community meeting convened and homeowners heard from Howard Barewin, Tomahawk Creek's attorney, Jim Tiehen of Tiehen Management Company, the community's management company, President South, Ken Patrick, Debra Smith and various homeowners. Many of the homeowners in attendance agreed that Debra should be removed as a director.

In June, a community initiative began to re-vote on her removal. A petition to call a special meeting was circulated and this meeting is the result of that community initiative, not continued harassment by the board as Ms. Smith contends.

Ms. Smith has maintained the status quo that she announced she would do at the May 17 meeting in response to a homeowner question of how she would work with the other board members. Her answer was, "like I have been." She continues to email and print

out literature that is placed on doors that contains incorrect information. And, just for the record, I (Pres. South) was elected in December, 2005 for a two year term. She continues her attack on board members and other members of this community by trying to discredit people and prying into their private lives and financial affairs. She continues to step over the line of the fiduciary duty of a director of a homes association.

She filed a complaint against our TC insurance agent and when the Commissioner of Insurance made a determination that the complaint was unfounded, she left the agent three messages on his voicemail, stating that she knew personal information about he and his wife. I ask you how the personal information of our insurance agent or his wife is TC business and something a director should be pursuing?

President South then provided the opportunity for homeowners to speak.

Good evening; thank you for being here. It is important to all of us. Abraham Lincoln is credited with saying Nearly all men can stand adversity, but if you want to test his character, give him power. Every leader inherently knows that any measure of power is earned with the respect of the constituents before they lead. Debra Smith has not demonstrated a sense of propriety that warrants the support and respect of her neighbors. Instead she has managed to disrespect her neighbors in a variety of ways; distracting her attention from the pertinent business of our community.

The Board called the meeting in May to vote for her removal because she refused to resign. She admittedly attacked those on the board at their place of employment. Since that meeting, she has targeted and attacked me. My name is DJ and I would like to clarify what I said at that meeting and how I have repeatedly been misquoted as the residents have called for this second vote to remove Debra Smith from the Board.

Specifically, I stated that whatever military experience she had, she had not transitioned well in a civilized society, and that she was not an effective board member. My point was that in the real world, we MUST tolerate and respect the civil rights of others as opposed to military protocol. Ms. Smith will claim that I slandered her and brought into question her state of mind. However, that question was raised by someone else just prior to my speaking, mine was a separate comment.

Since that meeting Debra Smith has threatened me three times with legal action, all of which are admitted and reflected in the minutes of the meetings from June and July. She said:

1. I could expect a telephone call from her attorney.
2. I know where you live; and
3. She could get a restraining order against me for stalking her.

I have good reason to only use a nickname and to question the Board about the level of privacy the residents could expect from Board, and was assured that the Board members were not privileged to the information held in the office files. Thus, the “I know where you live” and “stalking” comments from her were particularly threatening to me because

I am a victim of violence and know what it is to be stalked and live in fear. In fact, the reason I bought into this complex and the floor plan I chose was because it met the security requirements I had.

Ms. Smith did not consider these possibilities when she researched my legal name and shared it with an unknown number of people in an email, and brings into question my ownership of property and my mortgage besides manufacturing strange gossip. Although this is necessarily public information, she violates my privacy by distributing this information, slandering and libeling me. It is hypocritical for her to be so intentional toward me and others for the very crime she claims have been made against herself. Included in this email, she states clearly her intention to overpower the current board of directors.

She knows nothing about me and has targeted me because I have been outspoken about my rights. I am retired from 25 years of working as a paralegal and am very familiar with just what my rights and legal resources are. She has no cause of action against me, however, I do have cause for legal action against her. I simply want Debra Smith to be held accountable for her actions and behavior without inflicting cause for our community to indemnify her in any legal action that may come about as she serves on the board.

It is a fair expectation that our leaders would first behave within the laws of our society and uphold a standard of considering the welfare of the very community they have been elected to protect. Debra Smith has not accomplished this and should be removed from the board. Thank you.

President South then asked if anyone else cared to speak. No other homeowners took the floor, so Ms. Smith was given her opportunity to speak.

Ms. Smith said that it doesn't surprise her that Linda and (used DJ's legal name), stood up here, (DJ told her not to use her legal name), Ms. Smith then said, please don't interrupt me. Continuing, she stated that Linda and DJ had stood up to say that she had attacked them. Next, Ms. Smith reminded everyone of her vast power as a military judge of a grand jury. She made the point that she, too, knew of legalities. There have been lots of statements made that I haven't seen the proof. Ms Smith said that Linda had said that she had attacked—where is the evidence? She says I dive into legal personal affairs. I don't have personal information about our insurance agent. He has called me two or three times since our talk; I don't think he has acted ethically. Linda is trying to bring up an issue that Keith and I have since resolved. So, I am not surprised.

Ms. Smith again referred to DJ by her legal name, and continued to say, "gets up here and slandered and defamed me shamelessly. We had military veterans leave because what she said was so outlandish. She got up here to speak in May; in June she got up again and spoke extremely in a defaming fashion, again. She also said that I admitted attacking her; I have had power with military experience and did just fine. This board is just another community event; directorship has not gone to my head.

Legal action/threaten. You can take it as a threat-but it was a fact. I relayed what the district attorney said. You were taunting me in that meeting. Of course I know where you live, since you live katty korner from me; you were the one taunting me. I see you almost every day. This is one way I am being defamed. If you think my saying my attorney will be contacting you is a threat, fine. He still may contact you.

I want facts, specifics; no, I am not looking into mortgage information; I don't care about your mortgage information. Your accusations are unfounded and typical; you have hardly been to any board meetings, but you say all of these things. So, in conclusion, I was voted in and will stay until voted out. I get anonymous email messages stating that things going on here are a disgrace.”

Jim Stasieluk spoke next. I don't have anything prepared for tonight, but wanted to quote Debra's own words from her July 18, 2007 e-mail. In her words, in an email to me, anyone can come up to see the e-mail if they like, she said, “I'm talking to lawyers about slander and criminal defamation.” I'll also read from a second email that was sent to many people; it was dated August, 20, 2007. In this email she named 5 people and said they are all guilty of intimidating a witness and that they are breaking the law. I didn't bring the others; there are more. I've been counseled, with other e-mails and voice-mail messages, one even including the “f” word. I've been told that all of those are grounds for harassment. Because the “f” word encounter was witnessed by my granddaughter—makes it a step higher in degree.

Debra's Response: Like I said before when Jim Stasieluk stood up before homeowners; he was the one before that offered to pay for copies and postage and took me out and flirted with me. You are and were intimidating a witness; harassment for what someone believes in their mind to be a crime.

Jim Stasieluk – If “we” choose to file an action; I'll pay the majority of the cost if people want to take legal action against Ms. Smith. We shouldn't have to stand still for this type of harassment and intimidation.

Homeowner Question: I thought this was an internal problem: Did the Board consider appointing someone not involved to come in and resolve the problem?

President South: I don't know what your definition of internal is, but this is a community problem. The problem/issue has not been only between Ms. Smith and Board members or even with others in our community.

Debra Smith: The Board of Directors attempted to vote me off in May, so in June two homeowners wanted a re-vote and that is why we are here.

Homeowner: I guess I don't understand what the issues are. I really don't care. It is the Board's duty to oversee what goes on in our community.

President South: That is why the Board brought this to the community's attention; it has since enlarged.

Homeowner: May I ask, What is the reason, if there is harassment?

President South: Were you able to read the minutes of previous meetings, or attend other meetings? Homeowner: No

President South: Our management company indicated if Ms. Smith continued harassment of his employees he would no longer be willing to manage our community.

Debra: What is the reason for the problems? I'll give you the reason... on my tape recorder--In Feb and March Board Meetings I was told to stop advocating for one bedroom homeowners. Then I received 103 signatures of homeowners wanting a change in the square footage formula used for determining various types of units' monthly HOA dues. Linda, Ken, and Gayle then voted to remove me since I refused to stop advocating for one portion of the community (one bedroom homeowners; I was the only one bedroom homeowner on the board at the time). Since some questioned that, they are now saying, unfounded, or now they are saying I am harassing. They have continually defamed me and continue to this day.

Homeowner: Somewhat explains.

Homeowner: My question is, is it a fact that she went to board members' places of businesses to cause trouble for them?

Debra: We talked about this at the last meeting; yes, I did; the reason I did to Gayle and Linda – I was being harassed about an email I sent about this (our board work) being a combat sport. They were using their government email, which is a misuse. When I was serving in Delta Force –if I was misusing government email I'm sure the government would want to know. I went to her place of employment. She is breaking a federal law. reported a crime.

Homeowner: There is a chain of command: Regardless or not of agreement, you should have gone to the President first and then explained and made a formal report before going to anyone's place of work.

Debra: I made a formal report; they were happy that I reported it.

Homeowner: It is not ok.

Gayle Voyles shared that the Debra had forced her way into the Dean's office. After the Dean removed Ms. Smith from her office she came downstairs to visit with Gayle about the situation. The Dean had shared with Gayle that she had clearly told Ms. Smith that she was not misusing the university e-mail. She had also told Ms. Smith that Gayle is not

a 9-5 employee and often works late into the night. Everyone uses their university email for some personal business.

Ms. Smith said that the University's Chancellor didn't agree with the Dean's take on this.

Jim: Did you take the Secretary of the Army to court?

Debra: Yes, but I don't discuss ongoing lawsuits.

Ms. Smith: Jim, Do you want me to dig into your divorce records?

Jim: You don't think this goes to your state of mind? How many people sue the Secretary of Army?

Debra; You don't know what you're talking about.

Another Homeowner: This lady (pointing to Ms. Smith) is continuously interrupting.

Another Homeowner: All of this needs to stop; it doesn't have anything to do with our HOA business.

DJ: Everything I said moments ago, I have proof and the board is in possession of it and my attorney is aware of it. The first time she said I would be expecting a phone call from her attorney; we have witnesses, from the meetings. I am unlisted. I have lived privately for a very long time and refuse to live in fear of intimidated again. We are still few at meetings because of Debra's intimidation methods. She doesn't have the power to intimidate all of us. I do have the proof.

President South: I would like to introduce the two individuals on the ballot: Judy Brewster and Stephanie Easley. Are there any nominations from the floor? Hearing none; I ask you to cast your ballot. If you haven't already put your ballot in the box, please do so now.

President South thanked everyone for participating in the Special Meeting before adjourning the meeting.

Respectfully Submitted,  
Gayle Voyles,  
TC Secretary and Treasurer