

## MAYOR'S MESSAGE – January 2020

### Happy New Year 2020

From the Mayor and Board of Aldermen

Here is wishing everyone a Happy New Year and let's make 2020 the best year ever for the Village of TimberCreek Canyon. The information that follows is to help new residents and maybe some older ones to understand how TimberCreek Canyon operates and who is responsible for what. After reading the following information, we welcome any questions you may have.

#### **TCC Government 101**

Recently there has been some confusion concerning the functions of TimberCreek Canyon (TCC) Village government and the Property Owner's Association (POA). To further clarify, the TCC Village government is classified by the State of Texas as a Class B municipality composed of an elected Mayor and five elected Board of Aldermen members. The POA is a private Village association made up of elected residents of TCC whose primary role is to oversee the maintenance and repair of the roads and gates. The TCC Village can impose taxes under Texas law not to exceed 25 cents per \$100 of property evaluation (current tax rate is just over 20 cents) and administer ordinances regulating the health, safety, and welfare of the community. After the Village law suit in early 2000's, an injunction was issued by the court **forbidding** the TCC Village from spending tax payer money to improve roads within the community or maintain the gates at its three entrances. Maintenance and repair of the roads and gates are funded by yearly dues collected from each property owner by the POA.

Property taxes collected by the TCC Village are used to provide the residents of TCC with a police department, a volunteer fire department, and to conduct business as related to the health, safety and welfare of its residents. Tax dollars are used to pay for a city manager (Kurt Grant), a secretary (Betty Howe), a treasurer (Elaine Dollar), an accountant (Ayne Sharp) and a Municipal Judge (Gary Stach). These individuals are paid on an hourly basis and everyone works in a part time position. Tax dollars support the local police department, the volunteer fire department, and other functions needed to provided essential services to the community. The Mayor and Aldermen serve without any monetary compensation.

Individuals who buy or own property in TCC and wish to build a home, add an out-building(s), or improve their property must comply with the TCC Village Ordinances. Ordinances are laws established to ensure the health, safety and welfare for all residence within the community. Each ordinance must address one of these three categories: health, safety, or welfare. The Village Building Committee (BC) chaired by Stu Lake, administers all applications for permits to construct new homes, outbuildings, or property improvements such as fences, carports, storm shelters, etc. All permits are reviewed for ordinance and building code compliance by members of the BC. The committee looks at setbacks, size of the structure, types

of materials used for framing, exterior walls, and roofs. The BC follows IRC 2016 to ensure that the home owner or building contractor meet the approved codes. The BC determines the number and type of inspections the contractor must complete before the final approval is given for occupancy of a new structure. The BC assures that the building is safe, that it is not a health hazard, and the welfare of the resident and surrounding neighbors is maintained. A permit for a residence requires three signatures from members of the BC before any construction can begin. Some things the BC **cannot do** is evaluate the aesthetics of any new residence or outbuilding before approving a permit. I know by personal experience that members of the BC have balked in the past on the approval of plans for some homes that were constructed in TCC. BC members felt the proposed plans would not match the appearance of other homes within the community or reflect the theme of a rural or country home. The City Managers (past and present) have warned BC members that the only way a building permit can be denied is if it fails to meet a requirement of a TCC ordinance. Denial of a permit because of aesthetic reasons would open the Village to possible legal actions. If a permit is denied because of a conflict with an existing ordinance the person who is seeking the permit may ask for a variance to the existing ordinance. A variance request is presented to the Board of Aldermen and is open for residents comments before the Board will act on it. The variance request can only be approved by a majority of board members voting in favor of the variance. Variance requests are approved or disapproved at the discretion of the Board of Aldermen after reviewing the variance request and listening to comments from the property owner and the public.

**What takes precedence, a deed restriction or an ordinance?** It is important to note that TCC ordinances follow the implied directions of property deed restrictions with the following caveat. The Village cannot enforce deed restrictions unless the violation of the deed restrictions is also a violation of an ordinance. Deed restrictions are often open to interpretation such as the prohibition to sheet metal for exterior or roof sheathing. Many of the older residents are well aware of the controversy that ensued over metal outbuildings in our community. This controversy was resolved by defining what is and is not appropriate through the revision of an existing ordinance. If someone is guilty of violating a deed restriction, the Village is powerless to act on this violation unless it also violates a Village ordinance. Any resident within the community may seek legal recourse through the courts against another individual found violating a deed restriction but TCC Village can only act if an ordinance has been broken.

**What recourse does TCC Village have if an Ordinance has been broken or ignored?** All violations involving personal injury, property damage, or community safety should be reported the Village Chief of Police or the Police Department. The police officer will take the report and determine a follow-up action plan. Based on the circumstance(s) of the event, the police officer may talk to the parties involved, give a verbal warning, issue a written warning, or issue a citation. An individual receiving a citation must answer or appear before the Municipal Judge where a fine may be assessed. If a violation is of a more serious nature or outside the jurisdiction of the Village (i.e. felony drug possession, assault or robbery), the Village police

officer will contact Randall County Sheriff's Department and the affair will be turned over to Randall County. Other perceived ordinance violations that do not impose an immediate concern or safety issue may be reported to the Mayor or Board member. These matters are often resolved by a phone call from the Mayor or Alderman or a letter from the City Manager. Persistent or unresolved infractions are forwarded to the Village Police Department for further action.

**Limitations in Enforcing Ordinances.** The Board of Aldermen have struggled with effective ways to enforce some ordinances; examples include: a) tall grass and weeds around a residence, b) securing abandoned or unattended property, and c) inordinate time required to complete the construction a new home. Ordinances have been created to deal with these issues, but due process often takes time. The normal time given for completion of a new home is 1 year with a 6 months extension if required. The best option to date is to allow the renewal of a permit at the end of 18 months and add a compounding late fee each time the permit has to be renewed. The goal is to encourage the homeowner to complete the project within the added time limits.

Residents who fail to mow their yards and remove noxious weeds are notified by the City Manager in writing. Failure to comply with the City Manager's written request, a citation and a fine will be issued to the home owner. If the situation has not been corrected within the specified time, the Village may use contract labor to mow the yard and will bill the resident for the expense(s). If the resident continues to ignore the fine or the bill for mowing and cleanup, a lien will be placed on the property in question.

#### **Notification for Ordinance Violations or Issues with the Roads or Gates**

Neither the Mayor or any member of the Board of Aldermen intentionally drives through the community looking for ordinance violations. Each resident in the Village has a responsibly to notify the proper authorities if they have concerns or witness any ordinance violations or illegal activity. I can guarantee nothing will get done about an issue if those responsible do not know about the problem!

*If you see a perceived ordinance issue, contact a member of TCC Village.*

*If you experience an issue with the roads or gate, contact a member of the POA.*

*If you observe a fire, an accident, someone seriously injured, or a crime call **911**.*

The Board of Aldermen continues to enact and revise ordinances to meet the needs of a changing community. The most current E-copy of the ordinances can be obtained by contacting Kurt Grant, City Manager at PRPC by calling 806-372-3381.

The Board will meet next Thursday, January 9<sup>th</sup> at 7:00 pm, everyone is welcome to attend and if you have questions or concerns, this will be a good time to share your concerns with the Mayor and the Board.