

**Minutes of Board of Directors Meeting  
Taberna Homeowners' Association  
December 9, 2009**

**Board Members Attending:**

Gene Peele	President
George McNulty	Vice President
Linda Pickens	Secretary
Suzanne Forsythe	Treasurer
Willis Vincent	Member at Large
Rick Layton	Member at Large
Steve Harman	Member at Large

**Also Attending:**

Jim Dugan, Russ Packard, John Serumgard, Beth Spano, Greg Killian and Harry Blot.

The Meeting was called to order by Gene Peele at 5:27pm, there being a quorum present.

**Minutes:**

Rick Layton made a motion to approve the Minutes of the November 11, 2009 Meeting, which was seconded by Willis Vincent. The Minutes were unanimously approved and accepted.

**Treasurer's Report:**

The Treasurer gave the following report:

Cash and Accounts Receivable: The total cash in the operating checking accounts as of December 9, is \$79,060. The total Accounts Receivable as of December 4 is \$8,906.

Reserve Deposits: The Treasurer made the budgeted 2009 reserve deposit for Abbingtion Woods in the amount of \$3,100.

Late Fees: Twelve letters were sent out for late fees and 14 reminder letters were sent out for delinquent payments for bushhogging fees.

Court Cases: The Treasurer provided an update on the status of collecting upon the judgments won in Court against delinquent homeowners, and provided recommendations for pursuing collection in 2010 by the new Board.

George McNulty made a Motion to accept the Treasurer's report, which was seconded by Willis Vincent. The Motion was unanimously passed.

### Open Items:

Web Site: Gene Peele reported on erroneous information posted on the web site as "Covenants Section II." Upon investigation it was determined that this document was never signed or recorded in the land records and, therefore, have never been in effect. Suzanne Forsythe made a Motion to have the "Covenants Section II" immediately removed from the web, which was seconded by Willis Vincent. The Motion was unanimously passed. Gene pointed out the need to review Association records to identify and verify all the rules and policies passed by previous Boards so that they can be posted on the web site. Linda Pickens, Willis Vincent and John Serumgard will work on this project.

Beautification: The landscaping improvements in front of the wrought iron fence at the front entrance (on the right leaving Taberna) and to the wrought iron fence near 611 Taberna Circle have been completed. The Building & Grounds Committee submitted a proposal for additional improvements at the front entrance of Taberna to screen the townhouses. The proposal was tabled until 2010. In response to suggestions received in the Survey, B&G will be placing three benches around the loop. B&G will be asked to look into adding benches in the Todd Denson Park. The cost of the benches will be paid out of the B&G maintenance fund.

Canoe Dock Park: We are still waiting for Building & Grounds Committee to remove the graffiti on the gazebo at the Canoe Dock Park. Gene Peele suggested to B&G that they use outside contractors to remove the graffiti if the Committee members are unable to complete the task.

### "Welcome Home" Signs:

In November, a resident complained about a "Welcome Home" sign. In response to the complaint, the resident posting the sign received a violation letter for violating the Covenant regarding signs. In light of the many military families living in Taberna, the Board subsequently decided to issue a new Rule allowing "Welcome Home" signs. Beth Spano, Harry Blot and Greg Killian spoke in favor of the signs. Greg Killian noted that the 2005 Board had decided to allow Welcome Home signs, but failed to document the decision in its records. The HOA attorney confirmed that the Covenants allow the Board to issue a new Rule regarding such signs. After discussion, Steve Harman made a Motion to allow one Welcome Home sign, professionally made, to be posted on common property near the flag pole for no more than 7 days, which was seconded by George McNulty. The Motion was unanimously passed. Linda Pickens will draft the new Rule, which will be mailed to all residents of Taberna with the 2010 dues invoice. (See attached Addendum.)

### Annual Meeting:

To date, the Board received 207 signed Proxies from residents, which exceeds the required number to meet the quorum of 25% of homeowners to conduct the Annual Meeting. Gene Peele reported that he has not received any questions from residents to be addressed at the Annual Meeting.

**ADDENDUM TO  
Minutes of Board of Directors Meeting  
Taberna Homeowners' Association**

Following the meeting of the Board of Directors on December 9th, the Board of Directors approved the following Rule with respect to "Welcome Home" signs/banners:

Taberna supports our troops and thanks them for their sacrifice. Therefore, the Board, pursuant to its rulemaking authority under Section 15 of the Protective Covenants, hereby authorizes a Lot Owner to temporarily display one (1) professionally made sign/banner on designated common property owned by the Association to welcome home a specific military family member who resides in Taberna and who is returning home from a deployment. Such sign/banner shall not exceed 16 square feet, shall be self supporting, and shall be removed within seven (7) days of posting. The Board of Directors has designated the grass area across from the flag pole on the right upon entering Taberna as the designated site for placing a Welcome Home sign/banner. A sign/banner as described above may also be displayed on an Owner's lot for a period not to exceed seven (7) days.

This Rule, effective January 1, 2010, was mailed to all homeowners together with the Invoice for 2010 Dues.

**Taberna Homeowners Association  
Board of Directors  
Agenda  
December 9, 2009 @ 5:30**

- |              |   |   |
|--------------|---|---|
| <b>I.</b>    | <b>Opening Remarks</b>  | <b>Gene Peele</b>   |
| <b>II.</b>   | <b>Adoption of Minutes</b>  | <b>Linda Pickens</b>  |
| <b>III.</b>  | <b>Treasurer's Report/<br/>Status Liens &amp; Court Actions</b>   | <b>Suzanne Forsythe</b>   |
| <b>IV.</b>   | <b>Old Business</b>   |   |
|              | <ul style="list-style-type: none"><li>• <b>Status Old Business Open Items</b></li><li>• <b>Abbingdon Fence Responsibilities</b></li><li>• <b>Annual Meeting Actions</b></li></ul>   | <b>Gene Peele/All<br/>Willis Vincent/Gene Peele<br/>Gene Peele</b>                    |
| <b>V.</b>    | <b>New Business</b>   |   |
|              | <ul style="list-style-type: none"><li>• <b>Welcome Home Sign Issue</b></li><li>• <b>Piedmont Natural Gas Study</b></li><li>• <b>Covenant Violations</b></li><li>• <b>Community Survey</b></li><li>• <b>Board Transition</b></li></ul> | <b>Gene Peele/All<br/>Gene Peele/All<br/>Willis Vincent<br/>Linda Pickens<br/>All</b> |
| <b>VI.</b>   | <b>Good of the Order</b>  |   |
| <b>VII.</b>  | <b>Confirm Next Meeting</b>   |   |
| <b>VIII.</b> | <b>Adjournment</b>  |   |

**BACKGROUND  
MATERIAL  
FOR  
MATTERS  
DISCUSSED  
AT  
BOARD  
MEETING**

## Linda Pickens

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**From:** Gene Peele [dgpeele@embarqmail.com]  
**Sent:** Tuesday, December 01, 2009 3:56 PM  
**To:** 'BETH F. ATKINS'  
**Cc:** 'Gene Peele'; 'George McNulty'; 'Linda Pickens'; 'Rick Layton'; 'Steve Harman'; 'Suzanne Forsythe'; 'Willis Vincent'  
**Subject:** Welcome Home Signs for Military

Beth and Fellow Board Members,

Please review the following as a proposed rules change to allow the temporary display of a welcome home sign for a member of our armed forces that is returning to Taberna from deployment overseas. I believe the authority for us to make a rule regarding these signs is in our covenants under 4. Building and Site Restrictions, D. (8) - temporary signs denoting a particular event.

such as an open house, -subject to such rules and regulations concerning the utilization of such signs as may be adopted from time to time by the Association

This issue arose because our covenants and published rules do not specifically allow these signs and a homeowner recently complained when a military family placed one on common property. Since we have a large number of military families and veterans in our community, this is a very sensitive issue for many people in our community.

Beth, we would like your opinion to ensure that this can be done and does it create a precedent that would require us to permit other temporary signs such as for church events, charities, etc.

### **Proposed rule change:**

Modify the Architectural Guidelines for Taberna Sign Policy to include the following new paragraph:

In accordance with the covenants 4. Building and Site Restrictions, D. (8), the Association authorizes the temporary display of a sign to celebrate and welcome home a specific military member, who resides in Taberna, and is returning home from an overseas deployment. Such sign shall not exceed 16 square feet and shall be permitted for a period not exceeding 7 days.

Time is short if we are to get this into our rules for 2010. We would need to mail this with our 2010 invoices to be mailed mid Dec.

Thanks, Gene

## Linda Pickens

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**From:** Gene Peele [dgpeele@embarqmail.com]  
**Sent:** Tuesday, December 08, 2009 3:31 PM  
**To:** 'Gene Peele'; 'George McNulty'; 'Linda Pickens'; 'Rick Layton'; 'Steve Harman'; 'Suzanne Forsythe'; 'Willis Vincent'  
**Cc:** 'Russ Packard'; j.serumgard@suddenlink.net; 'Jim Dugan'  
**Subject:** FW: Welcome Home Signs

**Categories:** Yellow Category

FYI – the attorney has given his opinion on the welcome home signs. It gives us the flexibility to decide tomorrow night on a rule.

Thanks, Gene

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**From:** Richard P. Leissner [mailto:RLeissner@hsfh.com]  
**Sent:** Tuesday, December 08, 2009 3:05 PM  
**To:** Gene Peele  
**Cc:** BETH F. ATKINS  
**Subject:** Welcome Home Signs

After reviewing the covenants and giving some thought to the issues dynamics involved, I have the following things to offer.

First, there are two issues at play – temporary signs on lots and temporary signs on common property. I think this distinction is important.

The Association has the right under Section 15 to "establish rules for use of any property within Taberna in order to protect the value of Lots, the aesthetic qualities of each Community and the tranquility of the owners." This includes common property. Section 4D applies only to signs on Lots.

The larger issue, as it seems to me, is the posting of larger signs on common property welcoming home the troops. As the Association has expressed an interest in accommodating the military families in the neighborhood, the military sign policy should read thusly:

"Taberna supports our troops and thanks them for their sacrifice. Therefore, the Board, pursuant to its rulemaking authority under Section 15 of the Protective Covenants, hereby authorizes a Lot Owner to temporarily display of ~~a single~~ *one* sign on common property to welcome home a specific military family member who resides in Taberna and who is returning home from an overseas deployment. Such sign shall not exceed 16 square feet and shall be removed within seven (7) days of posting." The Board will need to think about designating which common property can be used to post the sign.

Alternatively, the Association can prohibit the posting of temporary signs on common property, including "welcome home" signs and create a rule similar to the above pursuant to 4D of the covenants (Just replace common property with "their Lot").

As another alternative, you might consider having several designated "Welcome Home Troops" or "Taberna Supports Our Troops" days and print a generic sign to put up at the community entrance. This may be a discussion to have when there is more time to think the issues through.

Let me know your thoughts on what is a remarkably delicate issue.

Richard

Richard P. Leissner, Jr.  
HOWARD STALLINGS FROM & HUTSON, P.A.

2407 Grace Avenue  
Post Office Box 975  
New Bern, NC 28562  
Telephone: (252) 633-3006  
Facsimile: (252) 633-3097  
[rlaissner@hsfh.com](mailto:rlaissner@hsfh.com)

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## **Linda Pickens**

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**From:** Gene Peele [dgpeele@embarqmail.com]  
**Sent:** Tuesday, December 08, 2009 9:54 PM  
**To:** 'Gene Peele'; 'George McNulty'; 'Linda Pickens'; 'Rick Layton'; 'Steve Harman'; 'Suzanne Forsythe'; 'Willis Vincent'  
**Cc:** 'Jim Dugan'; 'Russ Packard'; j.serumgard@suddenlink.net  
**Subject:** FW: Military Signs

**Categories:** Yellow Category

Additional comments from our attorney.

Thanks, Gene

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**From:** Richard P. Leissner [mailto:RLeissner@hsfh.com]  
**Sent:** Tuesday, December 08, 2009 5:25 PM  
**To:** Gene Peele  
**Subject:** Military Signs

Gene,

There was a typo on my military sign policy. "Taberna supports our troops and thanks them for their sacrifice. Therefore, the Board, pursuant to its rulemaking authority under Section 15 of the Protective Covenants, hereby authorizes a Lot Owner to temporarily display of a single sign on common property..." Please remove the offending "of."

Additionally, Beth also recommends that the rule actually designate the location of the sign, if it's to go on common property.

Richard

Richard P. Leissner, Jr.  
HOWARD STALLINGS FROM & HUTSON, P.A.  
2407 Grace Avenue  
Post Office Box 975  
New Bern, NC 28562  
Telephone: (252) 633-3006  
Facsimile: (252) 633-3097  
[rleissner@hsfh.com](mailto:rleissner@hsfh.com)

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## Linda Pickens

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**From:** WsVincent@aol.com  
**Sent:** Tuesday, December 01, 2009 5:58 PM  
**To:** dgpeele@embarqmail.com  
**Cc:** ricklayton@msn.com; mmcnulty@suddenlink.net; forsythenc@embarqmail.com; lindapickens676@suddenlink.net; steve\_harman@suddenlink.net  
**Subject:** Re: Welcome Home Signs for Military  
**Attachments:** Sign Policy.doc

Gene: If we allow a welcome home sign for military personnel, we need to consider other personal signs such as for a graduating senior or for a person returning from an "extended stay in a hospital." We need a *comprehensive sign policy* that is part of the Rules Clarification Document. However, we need to take our time adopting such a policy. Any signs displayed should definitely *not* be allowed on Association common property.

We need input from the Taberna community. Have we used advisory committees in the past? Perhaps we should consider community input on such a sensitive issue. We also need the opinion of the new Board members.

I would not support a sign policy that caters merely to military families. We are showing preferential treatment. A rule limiting the display of signs to a special group probably would not withstand a court challenge.

See the attached sign policy that I wrote covering **much more** than military signs.

Willis

In a message dated 12/1/2009 3:56:53 P.M. Eastern Standard Time, [dgpeele@embarqmail.com](mailto:dgpeele@embarqmail.com) writes:

Beth and Fellow Board Members,

Please review the following as a proposed rules change to allow the temporary display of a welcome home sign for a member of our armed forces that is returning to Taberna from deployment overseas. I believe the authority for us to make a rule regarding these signs is in our covenants under 4. Building and Site Restrictions, D. (8) - temporary signs denoting a particular event.  
such as an open house, -subject to such rules and regulations concerning the utilization of such signs as may be adopted from time to time by the Association

This issue arose because our covenants and published rules do not specifically allow these signs and a homeowner recently complained when a military family placed one on common property. Since we have a large number of military families and veterans in our community, this is a very sensitive issue for many people in our community.

Beth, we would like your opinion to ensure that this can be done and does it create a precedent that would require us to permit other temporary signs such as for church events, charities, etc.

**Proposed rule change:**

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Time is short if we are to get this into our rules for 2010. We would need to mail this with our 2010 invoices to be mailed mid Dec.

Thanks, Gene

No virus found in this incoming message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 9.0.709 / Virus Database: 270.14.89/2539 - Release Date: 12/01/09 14:32:00

**13. Flag display; political signs; cautionary signs; for sale signs; announcement signs; commercial signs**

- Notwithstanding any provision in the governing documents, the Association shall not prohibit the outdoor display of any of the following:
  1. The American flag or an official or replica of a flag of the United States army, navy, air force, marine corps or coast guard by an association member on that member's property if the American flag or military flag is displayed in a manner consistent with the federal flag code (P.L. 94-344; 90 Stat. 810; 4 United States Code sections 4 through 10).
  2. The POW/MIA flag.
  3. The North Carolina state flag.
- The association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag, the military flag, the POW/MIA flag, and the North Carolina state flag.. The Association rules may regulate the location and size of flagpoles but shall not prohibit the installation of a flagpole.
- Notwithstanding any provision in the governing documents, an association shall not prohibit the indoor or outdoor display of a political sign by an association member on that member's property, except that an association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than three days after an election day. The association may regulate the size and number of political signs that may be placed on a member's property if the Association's regulation is no more restrictive than any applicable city or county ordinance that regulates the size and number of political signs on residential property. Political signs are prohibited on the Common Areas of Taberna. For the purposes of this paragraph, "political sign" means a sign that attempts to influence the outcome of an election, including supporting or opposing the recall of a public officer or supporting or opposing the circulation of a petition for a ballot measure, question or proposition or the recall of a public officer.
- Notwithstanding any provision in the governing documents, an Association shall not prohibit the use of cautionary or warning signs. The signs can only be displayed on a Lot owner's property but subject to good taste as determined by the Board of Directors. These signs include "temporary signs" about paint or wet concrete, or "permanent signs" about security systems or burglar alarms and invisible dog fencing. Small signs that indicate the presence of an alarm system or invisible fencing may be posted near a mailbox or at the front entryway of a home but not in the middle of the yard. If these signs are intended to be permanent, the signs must be unobtrusive and professionally manufactured or produced.
- Notwithstanding any provision in the governing documents, the Association shall not prohibit the outdoor display of a "for sale" sign by an association member on that member's property, including a sign that indicates the member is offering the property for sale by owner. The size

of a sign offering a property for sale shall be in conformance with Protective Covenant 4-D (4).

- Notwithstanding any provision in the governing documents, temporary signs denoting a particular event, such as an open house, are permitted subject to any rules and regulations concerning the utilization of such signs as may be adopted from time to time by the Association. These signs should be not be posted more than 24 hours before an event and removed immediately after the event. Temporary signs of a personal nature that announce a special event, such as birth of a baby, graduation from a school, the return of someone military duty, etc. may be left up for five (5) days. These signs shall be located only on the Lot of a homeowner.
- Commercial signs are prohibited in Taberna *except* as described in Protective Covenants 4-D (1), (2), (3), (4). Yard sale, moving sale, or garage sale signs have a commercial purpose and are strictly prohibited in Taberna.

## Linda Pickens

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**From:** Beth Spano [bethspano@hotmail.com]  
**Sent:** Tuesday, December 08, 2009 10:18 PM  
**To:** mmcnuity2@suddenlink.net; lindapickens676@suddenlink.net; forsythenc@embarqmail.com; ricklayton@msn.com; steve\_harman@suddenlink.net; wsvincent@aol.com  
**Subject:** military welcome home signs  
**Categories:** Yellow Category

Dear Taberna HOA Board,

I am writing to ask that you please vote to approve the rule change that will allow for military families to display "welcome home" signs in common areas when their loved one returns from a deployment.

As you are probably aware, it was the sign which I bought and proudly displayed for my husband's homecoming from a 10 month deployment to Iraq that was at the center of a complaint made by another Taberna resident. According to this other resident, he/she seems to believe that there is not a difference between a "welcome home" sign and any other type of sign being displayed in common areas.

Well, I, and many other Taberna residents, believe that there is a significant difference. Anytime a "welcome home" sign is seen in Taberna it should first, and foremost, be viewed as a symbol that, thankfully, another member of our armed forces has returned home safely. A "welcome home" sign is put up, not to solicit money, but to show love and support to a member of our military who has been separated from his/her family for many long months in order to fulfill an obligation to our country. A sign put up to show love and support to a returning Marine, Seaman, Soldier, Airman, etc. is not displayed in order to offend anyone, but is proudly displayed to show support and to recognize an individual for his/her sacrifice made in order to keep America free and safe.

I believe that if my husband, as well as all other members of the military are willing to risk their lives to keep our country safe, then it is only fair that they should receive a hero's welcome when they finally return home.

This change to the Taberna rules would help ensure that nothing like what happened to our family will ever happen again to another military family residing in Taberna.

Please vote to make sure that the rule change is passed so that, in the future, men and women of our armed services return home to a community that is supportive of the sacrifices which were made, not only by the one deployed, but also by the family he/she had to leave behind once duty called.

Thank you,  
Beth Spano

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## Linda Pickens

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**To:** Robert A forsythe  
**Subject:** RE: bank signer changes

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**From:** Robert A forsythe [mailto:forsythenc@embarqmail.com]  
**Sent:** Sunday, December 06, 2009 10:24 PM  
**To:** Linda Pickens  
**Subject:** RE: bank signer changes

Linda: I will see if I can get a hold of a blank set. These are 'boiler plate' forms that banks use for businesses and corporations. The Secretary is simply verifying the listing of officers and the appropriate signers. I am trying to find out who signed them on behalf of the Secretary five years ago...I believe the bank accepted another signer as certifying the forms as I had the corp. seal. It may have been the President at the time, or maybe even me! But I don't recall. Will keep you posted. Suzanne F 12/6/09

----- Original Message -----

**From:** Linda Pickens  
**To:** 'Robert A forsythe'  
**Sent:** Sat, 5 Dec 2009 16:27:09 -0500 (EST)  
**Subject:** RE: bank signer changes

Suzanne: Okay ... is there any way to get the documents to me ahead of time for review? I do not sign anything, much less as Secretary, without reading the document prior to signing. Having it ahead of time would save some time.

Thanks,

Linda

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**From:** Robert A forsythe  
[mailto:forsythenc@embarqmail.com]  
**Sent:** Friday, December 04, 2009 3:48 PM  
**To:** Linda Pickens  
**Subject:** RE: bank signer changes

Linda:  
The bank and the investment house use their own forms. Attorney is not involved. In order to save me a lot of time completing the forms myself as there are about 15 separate accounts involved, all of the paperwork is being prepared by the bank and Scott...all we have to do is show up, review, and sign.

Only thing I need to determine asap is who the officers will be for 2010 as these will be listed within the new bank forms. Gene is trying to get that info for me, but maybe you can help.

Suzanne F 12/4/09

----- Original Message -----

From: Linda Pickens

To: 'Robert A forsythe'

Sent: Fri, 4 Dec 2009 15:32:16 -0500 (EST)

Subject: RE: bank signer changes

Has the attorney prepared the corp.  
resolutions?

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From: Robert A forsythe

[\[mailto:forsthenc@embarqmail.com\]](mailto:forsthenc@embarqmail.com)

Sent: Friday, December 04, 2009 3:17 PM

To: lindapickens676

Subject: bank signer changes

Linda: A meeting has been arranged at BB&T main headqtrs in NB on 12/18/09 at 10AM to make all of the necessary bank signer changes. I may need you to attend as Secretary to

sign off on the Corp. Resolutions. If you will, please keep that date and time open for this bit of bureaucracy. It may take about an hour plus to have everything completed.

Thanks, Suzanne Forsythe 12/4/09

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

**HOUSE BILL 806  
RATIFIED BILL**

**AN ACT TO REQUIRE THAT A HOMEOWNERS ASSOCIATION MAKE REASONABLE AND DILIGENT EFFORTS TO LOCATE AND NOTIFY A LOT OWNER UNDER THE PLANNED COMMUNITY ACT OR A UNIT OWNER UNDER THE CONDOMINIUM ACT PRIOR TO FILING A CLAIM OF LIEN FOR ASSESSMENTS.**

The General Assembly of North Carolina enacts:

**SECTION 1. G.S. 47F-3-116 reads as rewritten:**

**"§ 47F-3-116. Lien for assessments.**

(a) Any assessment levied against a lot remaining unpaid for a period of 30 days or longer shall constitute a lien on that lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the lot is located in the manner provided herein. Prior to filing a claim of lien, the association must make reasonable and diligent efforts to ensure that its records contain the lot owner's current mailing address. No fewer than 15 days prior to filing the lien, the association shall mail a statement of the assessment amount due by first-class mail to the physical address of the lot and the lot owner's address of record with the association, and, if different, to the address for the lot owner shown on the county tax records and the county real property records for the lot. If the lot owner is a corporation, the statement shall also be sent by first-class mail to the mailing address of the registered agent for the corporation. Unless the declaration otherwise provides, fees, charges, late charges, and other charges imposed pursuant to G.S. 47F-3-102, 47F-3-107, 47F-3-107.1, and 47F-3-115 are enforceable as assessments under this section. Except as provided in subsections (a1) and (a2) of this section, the association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes.

(a1) An association may not foreclose an association assessment lien under Article 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with fines imposed by the association. The association, however, may enforce the lien by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(a2) An association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any lot owner unless the fee is expressly allowed in the declaration. Any lien securing a debt consisting solely of these fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(b) The lien under this section is prior to all liens and encumbrances on a lot except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the lot) recorded before the docketing of the claim of lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments and charges against the lot. This subsection does not affect the priority of mechanics' or materialmen's liens.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing of the claim of lien in the office of the clerk of superior court.

(d) This section does not prohibit other actions to recover the sums for which subsection (a) of this section creates a lien or prohibit an association taking a deed in lieu of foreclosure.

(e) A judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party. If the lot owner does not contest the collection of debt and enforcement of a lien after the expiration of the 15-day period following notice as required in subsection (e1) of this section, then reasonable attorneys' fees



shall not exceed one thousand two hundred dollars (\$1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remain uncontested as long as the lot owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the amount or validity of the debt and lien asserted or the association's right to collect the debt and enforce the lien as provided in this section. The attorneys' fee limitation in this subsection shall not apply to judicial foreclosures or to proceedings authorized under subsection (d) of this section or G.S. 47F-3-120.

(e1) A lot owner may not be required to pay attorneys' fees and court costs until the lot owner is notified in writing of the association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, to the mailing address for the lot owner in the association's records. The association must make reasonable and diligent efforts to ensure that its records contain the lot owner's current mailing address. The notice shall set out the outstanding balance due as of the date of the notice and state that the lot owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the lot owner pays the outstanding balance within this period, then the lot owner shall have no obligation to pay attorneys' fees and court costs. The notice shall also inform the lot owner of the opportunity to contact a representative of the association to discuss a payment schedule for the outstanding balance as provided in subsection (e2) of this section and shall provide the name and telephone number of the representative.

(e2) The association, acting through its executive board and in the board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the association nor the lot owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule only after the lot owner has been given notice as required in subsection (e1) of this section.

(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a lot obtains title to the lot as a result of foreclosure of a first mortgage or first deed of trust, such purchaser and its heirs, successors, and assigns, shall not be liable for the assessments against such lot which became due prior to the acquisition of title to such lot by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the lot owners including such purchaser, its heirs, successors, and assigns.

(g) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed. The first page of the claim of lien shall contain the following statement in print that is in boldface, capital letters and no smaller than the largest print used elsewhere in the document: 'THIS DOCUMENT CONSTITUTES A LIEN AGAINST YOUR PROPERTY, AND IF THE LIEN IS NOT PAID, THE HOMEOWNERS ASSOCIATION MAY PROCEED WITH FORECLOSURE AGAINST YOUR PROPERTY IN LIKE MANNER AS A MORTGAGE UNDER NORTH CAROLINA LAW.' The person signing the claim of lien on behalf of the association shall attach to and file with the claim of lien a certificate of service attesting to the attempt of service on the record owner, which service shall be attempted in accordance with G.S. 1A-1, Rule 4(j) for service of a copy of a summons and a complaint. If the actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted pursuant to both of the following: (i) G.S. 1A-1, Rule 4(j)(1) c., d., or e.; and (ii) by mailing a copy of the lien by regular, first-class mail, postage prepaid to the physical address of the lot and the lot owner's address of record with the association, and, if different, to the address for the lot owner shown on the county tax records and the county real property records for the lot. In the event that the owner of record is not a natural person, and actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted once pursuant to the applicable provisions of G.S. 1A-1, Rule 4(j)(3) through G.S. 1A-1, Rule 4(j)(9)."

SECTION 2. G.S. 47C-3-116 reads as rewritten:

"§ 47C-3-116. Lien for assessments.

(a) Any assessment levied against a unit remaining unpaid for a period of 30 days or longer shall constitute a lien on that unit when a claim of lien is filed of record in the office of

the clerk of superior court of the county in which the unit is located in the manner provided herein. Prior to filing a claim of lien, the association must make reasonable and diligent efforts to ensure that its records contain the unit owner's current mailing address. No fewer than 15 days prior to filing the lien, the association shall mail a statement of the assessment amount due by first-class mail to the physical address of the unit and the unit owner's address of record with the association, and, if different, to the address for the unit owner shown on the county tax records and the county real property records for the unit. If the unit owner is a corporation, the statement shall also be sent by first-class mail to the mailing address of the registered agent for the corporation. Unless the declaration otherwise provides, fees, charges, late charges and other charges imposed pursuant to G.S. 47C-3-102, 47C-3-107, 47C-3-107.1, and 47C-3-115 are enforceable as assessments under this section. Except as provided in subsections (a1) and (a2) of this section, the association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes.

(a1) An association may not foreclose an association assessment lien under Article 2A of Chapter 45 of the General Statutes if the debt securing the lien consists solely of fines imposed by the association, interest on unpaid fines, or attorneys' fees incurred by the association solely associated with fines imposed by the association. The association, however, may enforce the lien by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(a2) An association shall not levy, charge, or attempt to collect a service, collection, consulting, or administration fee from any unit owner unless the fee is expressly allowed in the declaration. Any lien secured by debt consisting solely of these fees may only be enforced by judicial foreclosure as provided in Article 29A of Chapter 1 of the General Statutes.

(b) The lien under this section is prior to all other liens and encumbrances on a unit except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the unit) recorded before the docketing of the lien in the office of the clerk of superior court, and (ii) liens for real estate taxes and other governmental assessments or charges against the unit. This subsection does not affect the priority of mechanics' or materialmen's liens.

(c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing thereof in the office of the clerk of superior court.

(d) This section does not prohibit actions to recover sums for which subsection (a) creates a lien or prohibit an association taking a deed in lieu of foreclosure.

(e) A judgment, decree, or order in any action brought under this section shall include costs and reasonable attorneys' fees for the prevailing party. If the unit owner does not contest the collection of debt and enforcement of a lien after the expiration of the 15-day period following notice as required in subsection (e1) of this section, then reasonable attorneys' fees shall not exceed one thousand two hundred dollars (\$1,200), not including costs or expenses incurred. The collection of debt and enforcement of a lien remain uncontested as long as the unit owner does not dispute, contest, or raise any objection, defense, offset, or counterclaim as to the amount or validity of the debt and lien asserted or the association's right to collect the debt and enforce the lien as provided in this section. The attorneys' fee limitation in this subsection shall not apply to judicial foreclosures or proceedings authorized under subsection (d) of this section or G.S. 47C-4-117.

(e1) A unit owner may not be required to pay attorneys' fees and court costs until the unit owner is notified in writing of the association's intent to seek payment of attorneys' fees and court costs. The notice must be sent by first-class mail to the property address and, if different, to the mailing address for the unit owner in the association's records. The association must make reasonable and diligent efforts to ensure that its records contain the unit owner's current mailing address. The notice shall set out the outstanding balance due as of the date of the notice and state that the unit owner has 15 days from the mailing of the notice by first-class mail to pay the outstanding balance without the attorneys' fees and court costs. If the unit owner pays the outstanding balance within this period, then the unit owner shall have no obligation to pay attorneys' fees and court costs. The notice shall also inform the unit owner of the opportunity to contact a representative of the association to discuss a payment schedule for the outstanding balance as provided in subsection (e2) of this section and shall provide the name and telephone number of the representative.

(e2) The association, acting through its executive board and in the board's sole discretion, may agree to allow payment of an outstanding balance in installments. Neither the

association nor the unit owner is obligated to offer or accept any proposed installment schedule. Reasonable administrative fees and costs for accepting and processing installments may be added to the outstanding balance and included in an installment payment schedule. Reasonable attorneys' fees may be added to the outstanding balance and included in an installment schedule only after the unit owner has been given notice as required in subsection (e1) of this section.

(f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a unit, obtains title to the unit as a result of foreclosure of a first mortgage or first deed of trust, such purchaser, and its heirs, successors and assigns, shall not be liable for the assessments against such unit which became due prior to acquisition of title to such unit by such purchaser. Such unpaid assessments shall be deemed to be common expenses collectible from all the unit owners including such purchaser, and its heirs, successors and assigns.

(g) A claim of lien shall set forth the name and address of the association, the name of the record owner of the lot at the time the claim of lien is filed, a description of the lot, and the amount of the lien claimed. The first page of the claim of lien shall contain the following statement in print that is in boldface, capital letters and no smaller than the largest print used elsewhere in the document: 'THIS DOCUMENT CONSTITUTES A LIEN AGAINST YOUR PROPERTY, AND IF THE LIEN IS NOT PAID, THE HOMEOWNERS ASSOCIATION MAY PROCEED WITH FORECLOSURE AGAINST YOUR PROPERTY IN LIKE MANNER AS A MORTGAGE UNDER NORTH CAROLINA LAW.' The person signing the claim of lien on behalf of the association shall attach to and file with the claim of lien a certificate of service attesting to the attempt of service on the record owner, which service shall be attempted in accordance with G.S. 1A-1, Rule 4(j) for service of a copy of a summons and a complaint. If the actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted pursuant to both of the following: (i) G.S. 1A-1, Rule 4(j)(1) c., d., or e.; and (ii) by mailing a copy of the lien by regular, first-class mail, postage prepaid to the physical address of the unit and the unit owner's address of record with the association, and, if different, to the address for the unit owner shown on the county tax records and the county real property records for the unit. In the event that the owner of record is not a natural person, and actual service is not achieved, the person signing the claim of lien on behalf of the association shall be deemed to have met the requirements of this subsection if service has been attempted once pursuant to the applicable provisions of G.S. 1A-1, Rule 4(j)(3) through G.S. 1A-1, Rule 4(j)(9)."

**SECTION 3.** This act becomes effective October 1, 2009, and applies to claims of lien filed on or after that date.

In the General Assembly read three times and ratified this the 11<sup>th</sup> day of August, 2009.

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Walter H. Dalton  
President of the Senate

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Joe Hackney  
Speaker of the House of Representatives

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Beverly E. Perdue  
Governor

Approved \_\_\_\_\_m. this \_\_\_\_\_ day of \_\_\_\_\_, 2009

Taberna HOA Board of Directors – Open Items  
9 Dec 2009

Subject	Date Initial Discussion	Target Resolution Date	Responsible Person/Board	Comments	Completion Date
Update THOA Web Site	2008	Summer 2009	Peele/Windham	Purpose is to improve community visibility via web updates. Status presented at 21 Jan 09 BOD mtg. Peele/Windham to take pictures for addition to site. Gene/Alva met on 19 Jun to review proposed changes. Photos have been taken and most of the drafting is complete. Alva to schedule meeting with Website developer to discuss layout of text/photos.	30 Dec 09
Fence Easement for Front Entrance	2006	September 2007 – TBD pending ECB decisions	Peele/2009 BOD, TBD for 2010 Board	Easement resolved with Fred Morton and Dunkin Donuts. ECB unwilling to go forward until they make development decisions. POC is Don Brinkley (672-5958). In 13 Oct telecom, he confirmed ECB's intent to build on the lot when the economy is better and to give the HOA an easement to allow us to keep our fence. In a separate matter, they are working to resolve a drainage issue that is leaving 1/3 of their lot under water and precluding it from being mowed.	TBD, 2010 Board needs to stay in touch with this issue.

Beautification Plan	January 2006	Dec 2009	THOA Board in conjunction with B & G	BOD implemented a 3-5 year plan for changes to beautify Taberna (ref. 2006 annual meeting). Depending on 2010 budget decisions, 2009 may be the last year for the current Beautification Project that began in 2006. Completed mods to Front Entrance islands and Emmen Rd upgrades. Board approved use of residual 2009 Beautification funds and Capital Improvement funds to landscape the front, left bridge and upgrade the bridge near Ticino Rd. Proposal for addition of Leland Cypress trees at Taberna Townes was not approved - Board has requested B&G to develop further, specific ideas/plans for screening Taberna Townes. Board approved work would be done with available 2010 funds.	TBD based on 2010 Board decisions
Determine what new equipment to install at Todd Denson Park to enhance community use (renamed from basketball court)	Nov 08	TBD	Linda to receive polling results. Board decision on results. TBD for 2010	Proposed concept (\$13.9K) for basketball court presented at Nov 08 Board mtg. Need to explore pros & cons and develop proposal for how to do it. Board decided to poll owners on their wishes for park enhancements. New email address created. Less than 10 responded. No one requested Basketball Ct. Most responses supported pet fencing. Back fence, approved by Board, has been installed. Bo Wernersback has proposed additional improvements for a multi-use park (ref his Sep Board presentation). Board included park funds in 2010 budget with final decisions to implement them to be based on results of a homeowner survey in Dec 09.	TBD by 2010 Board

Taberna CC/HOA Agreement on landscaping	Fall 08	May 09	Peele	Lawyers drafted agreement HOA easement and for golf course to maintain landscaping purchased by HOA. Fred Leonard refused to sign the agreement. Plans for Peele and Costanzo to meet with Fred on hold. Need to discuss appropriateness and next steps.	TBD
Repair stairs on canoe dock and remove graffiti on gazebo	Feb 09	TBD	Peele/B&G	B&G has appointed a monitor for the dock area. New steps have been installed. Board has requested that graffiti be removed as part of a contract with Kut-Rite for clean up of trail leading to canoe docks. B&G has action to complete.	Dec 09
Report from Bob Costanzo on Wetlands Management	Feb 09	Jun 09	Bob Costanzo	Bob held meeting with a Wetlands expert from the Corps on 24 June. No problems anticipated. Need to have another meeting with a storm drainage expert regarding Taberna's permits to increase awareness of potential issues that might arise in the future.	Jan 10
Have Attorney Issue Demand Letters on Open liens	11 Mar 09	May/Jun 09	Suzanne	Attorney prepared draft. Board approved and attorney sent letters to lienholders. Suzanne and Gene developed plan with attorney to go to small claims court. HOA won a judgement against one homeowner on 15 Sep 09 and two others on 5 Nov 09. Payment plans have been worked out for two homeowners. Collection process begun for homeowners with judgements.	TBD by 2010 Board

4 Way Stop Repairs	8 Apr	June 09	Gene/B&G	Board approved B&G recommended repair by Reed. Reed has redone the repair to address the drainage problem. City contacted re adding Decorative barriers. Legal issues preclude HOA installing any barriers. City (Danny Meadows) volunteered to examine possible barriers they could install. Samples of proposed barrier were not acceptable to B&G. No response to our email requesting City to go with our golf stakes with HOA assuming liability. Need to send message to Denny Bucher to request assistance for final resolution.	Jan 10
Lot 426					

Vanguard

Taberna HOA Board of Directors – Closed Items  
10 June 2009

Subject	Date Initial Discussion	Target Resolution Date	Responsible Person/Board	Comments	Completion Date
Vendetti Covenant Violations	2006	Feb 2009	Peele/BOD	Numerous violations of boat and trailer covenants. Fined \$100 by Adjudicatory Panel. Appeal denied by Board 21 Jan 09. Fine Paid	Closed
Etta Daniel's Insurance Claim, 101 Valais Ct	22 Sep 2008	Mar 2009	Peele/BOD	22 Sep ltr received from homeowner demanding reimbursement for tree damage to house. Issue turned over to insurance agent on 25 Sep 08. Cincinnati Ins Co. denied claim in 11 Feb 09 letter	Closed
Review of Tree Removal Decisions	Sep 2008	Spring 2009	Turner/ACC	Daniel's situation required a review of past decisions to limit HOA liability. ACC completed review and no further action required	Closed
Drainage from Lots at 122 & 123 Friburg Rd.	Summer 2008	3/2009	Peele	Property owners were notified by Costanzo ltr on 8 Nov 08. Follow-up Ltrs sent in Jan 09. One lot has been repaired. Other lot owner to visit on 27 Feb to discuss required repairs. Another lot owner needs to be contacted as erosion also caused by 3rd lot. All 3 lot owners have made repairs	Closed
Prepare Budget Process Procedure/Guide	Summer 2008	Apr 2009	Peele, BOD & Committees	Improve coordination and preparation of budget. Gene to draft proposal. Gene & Suzanne met Mar 17th and prepared Budget Milestones. Guidelines drafted	Closed

				and published 7 May.	
OTW owner request to glass their screened porch	Dec 2008	TBD	TBD/BOD	Need opinion on whether request violates covenants. Discussed at Feb Board meeting. Not a covenant issue. Ball is in owner's hand to follow thru	Closed
Owner appeal of ACC decision to deny Pergola in backyard	Nov 2008	Apr 2009	Peele/BOD	Issue is golf course lot. Owner wants a waiver as the lot doesn't face course. Owner has submitted revised plans that are acceptable to the ACC.	Closed
Community Building in Todd Denson Park	Proposed at Dec 08 annual mtg	TBD	TBD	Need Board consensus on whether to form an exploratory committee. Board voted 11 Feb 09 not to pursue this	Closed
25 MPH Speed Limit	8 Apr	Jun 09	Rick/NB Police	B&G proposed lowering speed limit to 25 mph everywhere. The majority of responses to the Tribune article opposed lowering the speed limit. Results of two months of speed monitoring within Taberna don't support lowering the limit.	Closed at 10 Jun BOD meeting
HOA Office Lease	Feb 09	Apr 09	Peele/Forsythe	Need to verify when lease needs extension. Board authorized Suzanne to renew current lease. New lease negotiated for Board approval. Approved and signed	Closed
Landscaping & Maintenance Contracts for 2010/2011	Jan 2009	Aug 2009, contracts awarded	BOD, Jim Wilson B&G, & sub-committees	Goal is to release bids and select contractors NLT end of Aug. Peele met with B&G 18 Feb. B&G, Abbington Woods, & OTW released Board approved RFQs. All bids were received by 12 June. Recommended contractor selections presented at the 8 Jul BOD meeting. All contracts have been approved by the Board and signed	Closed. Last contract signed on 17 Sep

Annual Community Picnic	Feb 09	Nov 09	Board Decision to have picnic and form committee. Rick Layton	Board needs to confirm plan and form committee in late spring. Residences were asked for comments in Apr Tribune. No input received as of 13 May. Rick Layton has agreed to chair effort. Picnic was held on for 26 September. Tribune, BB&T, Dunkin Donuts, HOA were sponsors.	Closed
Digital Backup for THOA records	12/2006	Fall 2009	Peele/Costanzo	Need to plan for records backup. Met with CRMI 7 Jul. They will come to office to review files and give us a proposal. Gene & Suzanne met with CRMI 16 Jul. They can give us a proposal upon request. Finance Committee has identified alternatives for fire proof cabinets that may be cheaper. Board decision to buy used cabinets. Awaiting purchase. Cabinets were purchased and installed 28 Oct 09. Files have been transferred.	Closed

**Linda Pickens**

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**From:** Gene Peele [dgpeele@embarqmail.com]  
**Sent:** Wednesday, December 09, 2009 2:59 PM  
**To:** 'Jim Dugan'  
**Cc:** 'Robert A forsythe'; 'lindapickens676'  
**Subject:** RE: Taberna Covenants address welcome home signs

We have a lot of bogus information on the website and it will be essential to clean up our website this coming year. Our files also need to be updated

The attorney initially told me that there was no deeded Phase V – First Addition amendment but just called me to confirm that there is a deeded version (he is sending it to me). However interestingly, the amendment has nothing to do with revising our rules and restrictions – it only added new lots like all the other amendments. .

Therefore we have bad info posted on our website. It mixes rules for which we don't know the source with covenants language that has nothing to do with adding these rules and restrictions and is inconsistent with our Architectural Guidelines section of the website.

I think we should immediately direct Alva to take down the so called Section II of the Covenants. It is bogus.

Regardless, the attorney confirmed that none of this changes his earlier opinion on how we can proceed.

Thanks, Gene

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**From:** Jim Dugan [mailto:jimdugan@embarqmail.com]  
**Sent:** Wednesday, December 09, 2009 11:15 AM  
**To:** Gene Peele  
**Subject:** Taberna Covenants address welcome home signs

Gene,

To prepare for the agenda for tonight, I looked up the paragraph in the covenants that addresses the "welcome home" signs (as well as garage sale signs). Highlighted below.

#### **Taberna Homeowners Association Covenants Part II**

Attachment IV

#### **TABERNA MASTER HOMEOWNERS ASSOCIATION**

Standards for Signs Taberna residents, builders, contractors and realtors are required to abide by the following standards.

- All permitted signs shall be constructed of materials, styles, colors and sizes as approved by the HO A. The Covenants allow for exceptions for the Taberna Golf Club, street or directional signs erected by Weyerhaeuser Real Estate Development Company (WREDCO) and governmental entities. Specifications are available for permitted signs.
- Only one (1) of the following signs shall be displayed, per lot, at any given time:
  - a) One (1) sign provided by WREDCO identifying the name of the owner of the lot.
  - b) One (1) sign specifying the general contractor actually constructing a home on the lot. Such sign must be removed upon issuance of a Certificate of Occupancy for the home.
  - c) One (1) sign identifying the lot as "For Sale" either by a selling agent or by the owner. Any hanger boxes with sales information must be attached to the post. Such sign must be removed within two (2) business days following completion of the real estate purchase of the lot or home.
  - d) Acceptable option: One (1) sign consisting of two conforming signs placed back-to-back on the same signpost.
- The above signs must be placed a minimum of 10 feet from the curb and centered to the front of the lot.
- Temporary signs announcing or giving directions to an open house, garage sale, reunion, party, etc., must be tastefully constructed and are not to exceed four square feet. Temporary signs may be erected on the evening prior to the event and must be removed no later than twenty-four (24) hours after the close of the event.
- Signs of a cautionary nature such as "Wet Concrete" may be displayed on a temporary basis and must be removed soon as practicable. An owner may place one (1) home security sign adjacent to the front of the home on a temporary or permanent basis.

10/20/03

Jim

TABERNA HOA

done 9/06

**LEGAL ACTIONS (LIENS and COURT ACTION) for the COLLECTION OF DELINQUENT Accounts Receivable:**

**Summary: TIME LINE and Where FEES are required:**

INVOICE is prepared and sent out with a due date normally around 30 days after invoice date.

LATE FEE: assessed approx. 30 days after the due date each month until paid in full.

LIEN: Place lien on property within 9 months of due date.

Must provide warning and statement of account to property owner at least 15 days in advance of lien placement.

FEE: \$6.00 plus 25cents for each addl. page

Is valid for 3 years, not renewable

Removal of lien form must be notarized, but requires no court fee

**SMALL CLAIM COURT ACTION:**

File forms with Clerk of Court: FEE for filing forms (\$75 as of 2009)

FEE for Sheriff to serve Summons (\$15 each defendant)

Must be filed in County of the defendant's residence.

Court date is initially set about 30 days from filing.

Settlement may be done before court date. No fees will be refunded.

Plaintiff must notify Court of settlement before court date.

**Judgment:**

Defendant has 10 days to pay plaintiff directly or appeal the decision.

Plaintiff must notify court within 60 days of payment or face being sued by defendant.

**Appeal:**

If appeal is made, the case goes to District Court

Everything proceeds as if no previous judgment has been made.

This is a formal court hearing and is more costly and is expected to have legal rep.

**If no appeal and no payment are made:**

Forced collection may be attempted.

Plaintiff sends Exempt Property forms to defendant

Fee is paid to Sheriff to deliver these to defendant (or can send by certified mail)

Defendant has 20 days to respond to Clerk with the completed exempt property forms or any property may be eligible for seizure.

Plaintiff then requests an 'execution order' from the Clerk:

Fee paid to the Clerk to file

Fee paid to Sheriff to deliver and collect.

Execution order is good for 90 days. There is no limit as to the number of times an execution order is issued, but must start over each time with additional fees paid.

Only the Sheriff can serve and collect execution order.

Money collected by Sheriff is turned over to Clerk who then forwards to plaintiff.

If property is to be seized and sold, then a bond must be posted by the plaintiff before any property is taken and sold. This bond is reimbursed thru the sale proceeds.

Once property is sold, proceeds are used to pay auction costs and then the judgment.

Per the HOA attorney, costs of actual collection average approx. \$1,000 before any funds are disbursed for judgment.

**TABERNA HOA:**

**Taking delinquent accts. rec. to SMALL CLAIMS COURT**

**(done 9/15/09)**

**PROCEDURES:**

**SMALL CLAIMS COURT: \$5,000 limit**

**1) TO FILE a Claim:**

Complete 'Complaint for Money Owed' and 'Summons' forms in triplicate and take to the Office of the Clerk of the Superior Court Small Claims Division at the County courthouse in the county in which the defendant lives. One copy stays with the Clerk, one will go to the defendant and one will be retained by the plaintiff. Plaintiff must pay the Clerk the filing fee of \$75 (as of 2009) upon filing. No non-cashier's checks are accepted.

Complaint for Money Owed form provides the details.

Summons form is partially filled out by plaintiff and the Clerk fills in the rest, signs it and assigns a date and time for trial. The date will be no later than 30 days from the day of filing.

Notice of Assignment / Service card may be requested by the Clerk. This will be mailed to plaintiff providing when the case will be heard, and whether the defendant has received the summons and complaint.

In order for the lawsuit to be completed, a complaint and summons must be delivered to each defendant. To avoid complications, the easiest way is to have it done by the Sheriff. There is a \$15 (as of 2009) fee per defendant for the Sheriff to handle delivery and getting receipt of delivery signed. No non-cashier's checks are accepted.

Once the forms are completed and stamped by the Clerk; they should be taken (or mailed with accompanying letter) to the Sheriff's office. The Sheriff's deputy will keep a copy of the forms. He will serve the summons and complaint on the defendant(s) and obtain their signature of receipt. These will be returned to the Clerk of the Court. The Clerk will forward to the plaintiff. If not received within several weeks, call the Clerk directly. The case cannot be heard in court if the defendant has not been notified.

If the defendants are not found, special notice may be used called 'service by publication' which gives notice thru a newspaper. It is advisable to use an attorney for this.

**2) SETTLEMENT OUT of COURT:** If a written agreement to settle before the court date is done, the plaintiff must notify the Clerk of the court so that the case is dismissed. No fees will be refunded to the plaintiff by the court. They can be incorporated into the settlement between parties.

**3) MAGISTRATE's JUDGMENT:**

The magistrate will made a decision at the trial or may wait up to 10 days to issue the judgment. The written judgment will be filed with the Clerk of the Court within those 10 days with copies available for the plaintiff and the defendant.

**4) COLLECTION**

The defendant should pay plaintiff directly within the 10 days after the judgment or he may appeal to the District Court.

If the defendant pays plaintiff directly, the plaintiff must go to the clerk's office and personally note this payment in the official records. It must be done within 60 days or the defendant may sue and collect damages and court & attorney fees.

If the defendant does not pay nor appeals within the 10 days, plaintiff may go to the civil division of the Clerk of the Superior Court and have the clerk issue an order to the Sheriff called an "execution order". This gives the Sheriff the power to demand payment of the judgment from the defendant(s). If the defendant(s) do not pay, the Sheriff can then seize property, sell , and use

the money to pay the judgment. The Sheriff turns the money over to the Court Clerk, who notes the payment, and then gives the money to the plaintiff.

HOWEVER, before the 'execution' order can be issued, the plaintiff must get from the Clerk two forms called "Notice of Right to Have Exemptions Designated" and the "Motion to Claim Exempt Property". Complete the forms and have the Clerk sign. Both of these forms are then served on the defendant either by the Sheriff (for a fee) or thru the mail. The defendant has 20 days to fill out the forms and mail or deliver to the Clerk's office and to send the plaintiff a copy. If the defendant does not return the form within the 20 day period or returns the forms showing there is property to take, then the 'execution order' may be issued to the Sheriff. If the plaintiff believes that property that is being claimed as exempt or missing is in error, then a hearing before a District Court judge can be requested. The 'execution order' cannot be issued until this is heard.

There is a fee for issuing the 'execution order' and a fee to the sheriff's office for trying to collect. If the sheriff has to locate and take property, there will be additional costs involved. The plaintiff will be required to post a bond before the Sheriff will take the property to sell. Reimbursement of these costs will be made from the money collected from the sale of the property.

ONLY the Sheriff may deliver an execution and collect money. After the execution order is in force, do not accept any money or property from the defendant.

An 'execution order' is good for 90 days. There is no limit as to the number of execution orders that can be issued, but the process must be started all over again each time with related fees paid and proper notifications.

#### **5) EXEMPT PROPERTY:**

Certain types of property are protected from being seized to pay debt. The limits are based on the 'equity value' of the item. This means the 'fair market value' as to what the item could sell for at present time. Briefly, exempt property would apply to residence; a certain monetary value for automobiles and personal items such as clothing and household goods; items that are used in the occupation of the defendant; life insurance policies; and items required to maintain ones health. However, if the defendant does not file the Exemption forms on time, then all property is subject to seizure.

#### **6) APPEAL by DEFENDANT:**

The defendant may appeal the Magistrate's judgment within the 10 days to the District Court. File a written 'Notice of Appeal to the District Court' form with Clerk of Court and send a copy to the plaintiff. A fee is required to be paid. If done appropriately, no payment for the original judgment is required until after the appeal is heard and decided upon. The appeal for money judgment goes first to the court-ordered arbitration and then given, if necessary, to the District Court. This is a formal proceeding and the case is heard as if no other proceeding has happened.

**TABERNA HOMEOWNERS' ASSOCIATION  
MINUTES OF THE ANNUAL MEETING  
December 15, 2009**

The meeting was called to order by Gene Peele at 7:00 pm. It was determined that a quorum was reached with those present and by submitted proxies. Board members present were: Gene Peele, President, George McNulty, Vice President, Linda Pickens, Secretary, Suzanne Forsythe, Treasurer and At-Large Members Rick Layton, Willis Vincent and Steve Harman.

The Pledge of Allegiance was led by John Serumgard.

**Opening Remarks of the President:**

Gene Peele introduced the 2009 Board of Directors.

On a Motion made by Jack Painter, which was seconded by Clay Carson, the Minutes of the 2008 were unanimously approved.

Gene Peele presented a review of the Board's activities and accomplishments for 2009:

Landscaping: One major accomplishment in 2009 was the request for proposals and finalizing approvals of the landscape maintenance contracts for the years 2010 and 2011. Eight contracts were signed, including the new maintenance contract for Emmen Rd. Beautification was another area of accomplishment in 2009. The Beautification Plan has been an ongoing project for the past three years, with the major landscaping improvements envisioned by the Plan being completed in 2009. Some of the Beautification improvements made in 2009 included a major renovation of the landscaping at the main entrance of Taberna, landscaping the wrought iron bridge at the entrance and another on Taberna Circle and improvements to Emmen Rd. Overall the HOA has spent approximately \$73,000 on Beautification over the last three years. Gene noted that the 2010 Budget does include \$10,000 toward improving Todd Denson Park (\$6,000 allocated) and further landscaping improvements (\$4,000 allocated) with the improvements being determined by the 2010 Board. Gene reported that 70% of the residents voted in the Annual Survey that the current landscaping is adequate, with 30% voting that moderate improvements are still necessary. The HOA consulted with Mackilwean Turf Farm on turf maintenance and, as a result, will now mow the areas of Emmen Rd. more frequently in order to improve turf conditions in that area.

Community: Gene highlighted the community spirit of Taberna as evidenced by the "Taberna Bear," currently on display in downtown New Bern as part of the 300th Anniversary celebration. The Bear was funded by donations from residents of Taberna. In addition, a resident donated a flag pole which was installed at the entrance to Taberna and was dedicated to Veterans on Veterans Day. Lastly, the annual Community Picnic was held this year with almost 200 residents attending. Gene noted that around 200 responses to the Survey were returned and that the input will be very helpful to the Board going forward. The Building and Grounds Committee has already acted on the suggestions of residents and will be installing benches around Taberna Way and Taberna Circle. The current economy is having an impact on the Community as we saw

three foreclosures on homes in 2009, although there was minimal impact financially on the HOA. Gene said that maintenance of homes in distress were a concern and that the 2010 Board will be monitoring the situation closely.

Rules and Covenants: Gene Peele noted that over 90 violations of Rules and Covenants were cited and tracked during 2009. He noted that the majority of respondents to the Survey indicated that enforcement of the Covenants was a concern and assured residents that violations are being addressed. The 2009 Board has approved a written procedure for Rules and Covenants enforcement which will be posted on the HOA website so that residents can fully understand how violations are processed. Gene stated that new Parking Rules were promulgated in response to loopholes in the Covenants which hindered enforcement in order to preserve the aesthetics of the Community. Gene also noted that the Board issued a new Rule for "Welcome Home" signs, which takes effect on January 1, 2010 and will be mailed to all residents with the 2010 invoice for Dues. Lastly, Gene noted that Piedmont Natural Gas is in the process of surveying the Community to determine the level of interest of resident in having natural gas.

Gene thanked the volunteers who served as Sub-Association Representative and on Committees for all their hard work. Jim Wilson, Chairman of Building & Grounds Committee, Dick Turner, Chairman of the Architectural Control Committee and Bob Moore, Chairman of the Finance Committee were recognized for their contributions. Larry Alderson was recognized for his work with the Neighborhood Watch Committee. John Reichenbacher was also recognized for his work with the Adjudicatory Panel as was Bob Costanzo of the Wetlands Committee.

#### Treasurer's Report:

In her opening remarks, Suzanne Forsythe stated there are currently 779 residential lots and 2 commercial lots. There are a total of 66 vacant residential lots, down from 68 last year. The CPA for the HOA is Mona Kay Sadler of Alliance. The HOA maintains a master account and accounts for maintenance and replacement for the four active associations. The funds for each are kept in separate accounts and are consolidated for taxes.

The Treasurer provided the following report on notable financial activities in 2009:

- The Finance Committee reviewed the Master and Sub-Association Financial Reports, bank and investment accounts for the last half of 2008 and the first half of 2009. No discrepancies were found.
- The Board overhauled the budget process this year to facilitate the Board's need to better determine the cash needs of the Community. The new budget process sets a timetable for its development, including a specific timetable for contracts and budget requests and requires specific projects and their costs be identified and approved by the Board prior to its inclusion in the budget for the following year.

- All of the reserve deposits were made per the 2009 Budget. All reserve funds are invested only in FDIC backed CDs or other government backed instruments so as to protect the principal amounts. Interest rates are not as high as they were in past years, but our reserves should be sufficient to cover the expected needs over time.

- There were slightly more property owners who failed to pay, or failed to pay in a timely manner, their Association Dues in 2009. Per the policy adopted as of January 2007, those accounts that are unpaid 30 days past the due date are charged a late fee of \$20 per month until the account is brought up-to-date. While a majority of property owners pay their account, there were a handful that the Board authorized placing liens upon the properties and three of those that we have taken additional legal actions for collection. The HOA was awarded judgments in each of those legal actions.

The following reports were reviewed by the Treasurer:

Master Association Revenue and Expense Report for 2009: The Treasurer is projecting that the majority of the line items will end up within budget or better. Revenues should be approximately \$192,750, less expenditures of \$182,019, for a positive balance of \$10,731, versus the \$4,840 that was expected per the 2009 Budget.

Balance Sheet - Cash: The Treasurer is forecasting an ending cash balance in our Operational account of approximately \$25,000. The current and past Board believe it prudent to carry a certain amount of cash over from one year to the next to allow for any delay in collections or need for early disbursements. By the end of 2010, all of the Sub-Associations should also have this type of cash cushion but only smaller.

Reserves: The Master Reserves now total \$96,389 for the Asset Replacement Fund and \$50,790 in the Operations Contingency Fund. The Operations Contingency Fund was set at a \$50,000 principal level and interest has accumulated resulting in its current balance of \$50,790. No further additions will be needed into this account except to replenish for any appropriate usage.

2010 Master Dues: The Board has reduced the 2010 dues payable to the Master Association by 6.5 percent. The 2010 Dues will be \$220 for most homes in Taberna; \$249 for Lake Lehman properties; and \$243 for commercial lots.

Sub-Associations: Each of the Sub-Associations is expected to be within its respective Budget by year-end 2009. Beginning January 1, 2010, invoicing for all Sub-Associations will be done on a quarterly basis for consistency purposes. Those that are currently billed semi-annually will be billed every quarter in 2010 and thereafter.

In negotiating the landscape maintenance contracts for the Sub-Associations, the Board was able to reduce the 2010 due for all Sub-Associations:

Abbingtion Woods	\$750 a year \$187.50 per quarter	a 5% reduction
Boleyn Creek Villas	\$700 a year \$175 per quarter	a 2.5% reduction

One Taberna Way:	\$1,500 a year \$375 per quarter	a 25% reduction because they are using up some of their prior years' cash overages
Taberna Landings	\$900 a year \$225 per quarter	a 33% reduction because of a change in the Reserve deposit requirements.

Gene Peele thanked Suzanne for her five years of service to the Board as its Treasurer.

#### **Election of the 2010 Board:**

There are four current Board members whose terms expire on December 31, 2009. They are: Steve Harman, Gene Peele, Rick Layton and Suzanne Forsythe. (Rick Layton served the remaining one year of Bob Costanzo's term.) George McNulty introduced the slate of candidates for the 2010 Board which was included in the ballots distributed to all residents: They are: Russ Packard, John Serumgard, Jim Dugan and Rick Layton (who is now running for a full two-year term). There were no nominations from the floor. By acclamation, the slate of candidates for the 2010 Board were approved.

#### **Questions From the Floor:**

*Q: Do we know what construction activity was taking place outside of the main entrance to Taberna?*

*A: We were conjecturing that it was sewer construction possibly going as far as Havelock. Also, there were drainage issues being addressed along the frontage adjacent to the Dunkin Donut property.*

*Q. Is there any news on the Railroad easement in conjunction with construction concerning the Taberna Townes? (Neil Fraiser)*

*A. Gene reported that no new information was available as to the litigation currently underway between the builder, the railroad and Weyerhaeuser. Gene noted that prices for the currently built townhouses had decreased significantly from \$340,000 to around \$260,000. Despite the recommendation from the real estate agent that the Builder consider renting the existing townhouses, the builder is not inclined to do so. It is also likely that the result of the litigation could entail the moving of the entrance road into the development and, therefore, the Board would need to continually monitor the developments of the situation.*

Gene also mentioned that currently no easement agreement concerning the fence along the East Carolina Bank property has been signed, the Banks representative have

assured that the fence will remain and that an easement will be forthcoming whenever construction of the bank occurred.

*Q In light of the compliments concerning the Beautification efforts in Taberna, should not the B&G Beautification budget remain at \$20,000 annually? (Ed Gorzalski)*

*A:* Earlier Boards agreed to fund between \$75,000 to \$100,000 for beautification over a three to five year period. The 2009 Board felt that the beautification plan was substantially completed in 2009. There remains a handful of small projects which can be completed in the future. However, the Board reviewed these efforts in 2009 and agreed that further enhancements to landscaping should be more defined and their costs projected before being included in future budget.

For 2010, a small number of areas need to be addressed, and the Board believes sufficient funds are available for these projects. For example, there were recommendations that the Taberna Townes be better screened. However, at this point in time it is difficult to know what construction or changes to the area may occur. The Board believes it is prudent to await the changes to the original plan for the Townhouses and that more study and review is necessary prior to committing resources to this project.

*Q: Wouldn't it be prudent to keep the Budget the same in 2010 as in 2009 to take into account any unforeseen expenditures? (Ed Gorzalski)*

*A.* We have enough cash within the budget that allows the Board flexibility and, additionally, the Board has discretion to spend down the cash carried over but only in a compelling case.

*Q. I am a new resident but vacant lots are not well maintained. (Rudy Wagner)*

*A.* Our covenants established the standard for the maintenance of vacant lots. This is a problem that continues to stay with us. The Board, however, increased the mowing frequency from three to four 4 times per year and changed the interval between mowings.

*Q. Will the Board continue its open door policy to our new Mayor and Alderman as they have in the past? Especially since one of our new Alderman is a Taberna resident? (Phil Buffa)*

*A* We have always reached out to our local representatives. An example being the entrance area by the 4-way stop signs that was being damaged by cars and trucks. The City offered a most unattractive solution to the problem, so and we are placing stakes along the grass areas to prevent cars from driving on the grass. Gene will reach out to our new Representatives to develop a permanent solution to this problem.

There were no more questions from the floor.

Gene then introduced the Secretary, Linda Pickens, who reviewed some additional information on responses to the Survey of homeowners. Linda reported that a vast majority of residents have a favorable opinion of Taberna as a Community and of the HOA management. One issue that was a concern to a majority of residents are the dead trees along Taberna Way. Linda reported that many residents had handwritten in comments and those comments were transcribed for the 2010 Board to review. Many excellent suggestions were provided on improving communication, which the 2010 Board will consider implementing. Additionally, the 2010 Board will cull through the comments and suggestions, as well as the responses to the questions in the Survey to develop specific goals for 2010.

Jim Wilson then told the residents that the trees along Taberna Way were being replaced at no cost to the Association.

The meeting was adjourned at 7:58 pm.

Approved by the Board of Directors:

By:

  
Rick Layton, President

10 JAN 2010  
Date

### **Piedmont Natural Gas:**

Piedmont Natural Gas has measured all the streets to calculate the amount of piping required to bring natural gas to Taberna and to determine the cost. Piedmont will poll residents in January to determine the amount of interest in having natural gas by residents to justify the cost. Piedmont will only install natural gas pipes in those areas where there is sufficient interest to justify the cost. Piedmont indicated that if there was enough interest by residents in Taberna to justify the cost, Piedmont would pay to run the lines from the street to the house. It was noted that there is minimal digging required to run the pipes as Piedmont uses indirect drilling.

### **Covenant Violations:**


Willis Vincent stated that he will prepare a year-end report on 2009 Covenant violations. Willis stated that the written procedures for handling Covenant violations will help assure residents that violations are handled uniformly. Two violation letters were sent out this month regarding trash receptacles.

### **Survey Results:**

Linda Pickens reported the results of the Survey. The computation of the Survey results was broken down into two categories: one relating to the HOA and the other relating to Todd Denson Park. In general, the residents indicated they are satisfied with the overall appearance of Taberna and with the HOA. The areas of most concern to residents are Covenant violations and lack of volunteers. With respect to the proposed improvements for Todd Denson Park, the majority of those responding wanted a fenced area, a bocce ball court and a horseshoe pit. The 2010 Board will determine what improvements are made to the Park.

There being no further business before the Board, a Motion was made by Suzanne Forsythe to adjourn, which was seconded by George McNulty. The Motion passed and the meeting was adjourned at 7:15 pm. The next meeting of the Board of Directors will be determined by the 2010 Board.

**Approved by the Board of Directors:**

  
By: Rick Layton, President

3-6-6 2010  
Date:

**TABERNA HOMEOWNERS' ASSOCIATION**  
**MINUTES of Post-Dec. 15, 2009 Annual Meeting of 2010 elected Board of Directors**

Members Present: Rick Layton, George McNulty, Linda Pickens, Willis Vincent, Russ Packard, John Serumgard and Jim Dugan.

The meeting was called to order by George McNulty at 8:00 pm for the purpose of electing Officers to the 2010 Board.

**Election of Officers for Year 2010:**


President:	Motion by John Serumgard to elect Rick Layton as President. Motion seconded by Jim Dugan. Unanimously approved.
Vice President:	Motion by John Serumgard to elect George McNulty as Vice President. Motion seconded by Linda Pickens. Unanimously approved.
Secretary:	Motion by George McNulty to elect Linda Pickens as Secretary. Motion seconded by Russ Packard. Unanimously approved.
Treasurer:	Motion by Linda Pickens to elect Jim Dugan as Treasurer. Motion seconded by George McNulty. Unanimously approved.

The Board will meet the first Wednesday of each month at 5:30 pm.

The Board discussed having an audit performed in 2010 and having the HOA accountant attend a Board meeting to discuss HOA accounting procedures. It was decided that the Secretary will receive the HOA mail and distribute as appropriate. The Board also expressed its desire to involve more residents on the standing Committees.

The meeting was adjourned at 8:10 pm.

Approved by the Board of Directors:

By:   
Rick Layton, President

6 Jan 2010  
Date