

# **The TVIC board transferred the community center without the members' knowledge and consent**

**by Brenda Grantland**

**This is Part II of a series of blog posts about a local nonprofit I am a member of - Tamalpais Valley Improvement Club. (<http://truthandjusticeblog.com/tvic-2>)**

*If you are reading this from a printed copy, go to the link above to download the source documents. Please read Part I for the background on this issue.*

On September 20, 2017, the Tamalpais Valley Improvement Club's board of directors signed documents transferring the title for the Tamalpais Valley Community Center to the Tamalpais Community Services District for \$1 and TCSD's promise to spend "up to \$75,000" to build a storage area for TVIC archives and historic documents. The members of Tamalpais Valley Improvement Club -- and the Tam Valley Community -- were kept in the dark about this until after the title was transferred. This was especially shocking considering the TVIC minutes showed the TVIC and TCSD boards had been discussing this transaction since February 2015. Members were never given a vote. In fact they were not even notified that the transaction was even under consideration.

The title deed was signed by the TVIC board of directors on September 20, 2017. The only notice given to members and the public was an agenda posted on the bulletin board at Eastwood Park, announcing a meeting of the TCSD board (not TVIC) that same evening. At the meeting the TCSD announced the transfer as a done deal. TVIC never gave any notice of this to TVIC members. One TVIC member happened to see the bulletin board posting of the TCSD board agenda and began calling current and former TVIC members. Only a few got the message in time to attend the meeting.

When I started looking into this, I requested documents from the TVIC board. Those documents showed that the TVIC board had been plotting this giveaway of the club's only valuable asset, in secret, for over 2 years. Members of the club were not informed of this, much less allowed to vote. Additionally in the course of accomplishing this secret transaction, the TVIC board amended the TVIC articles of incorporation and bylaws to give themselves more power, and change the form of the corporation. This was an illegal amendment, for many reasons, as I explain below.

I put the facts together in chronological order to make things clearer. You can download the TVIC minutes and other documents I reference here through the links at the bottom of this page. Timeline of events - from the TVIC board minutes  
2015

02-5-15 TVIC Board minutes show that at the Feb. 5 TVIC board meeting, TCSD Park & Rec Director Carol Buchholtz presented plans for a new, expanded commercial kitchen for the community center. She had in hand an architect's plans for the remodel. She said that baking for

the Rhubarb Revue must be done in a commercial kitchen per new county health rules. Without a commercial kitchen TVIC wouldn't be able to bake rhubarb pies for sale at the Rhubarb Revue, and purchasing premade rhubarb pies would make pie sales unprofitable. The minutes do not reflect any move to transfer ownership of the community center to TCSD.

02-20-15 is the date on the Meyers Nave law firm memo. It seems Meyers Nave, at the request of TCSD manager Jon Elam, wrote a memo regarding "TVIC's interest" in transferring the community center to TCSD. The memo says "a non-profit benefit corporation can make donations for the public welfare" ... "subject to limitations in the articles or bylaws." It noted that the property is currently leased to TCSD under a 50 year lease, expiring on 12/1/2044. The memo mentions the "irrevocably dedicated to charitable purposes" clause in TVIC's articles of incorporation and amendments.

03-05-2015 TVIC Board minutes show: the TVIC board approved a resolution for TCSD to remodel the community center to build a commercial kitchen; the Rhubarb Revue is cancelled for the year 2015 because they couldn't make pies for the Rhubarb Revue without a commercial kitchen; and Myers-Nave law firm (TCSD's lawyer) presented its memo about the legality of transferring the community center to TCSD.

05-07-2015 TVIC Board minutes show Curry suggested the document transferring the community center to TCSD not be done until the property has been designated open space and updated TVIC bylaws have been submitted to the state. It was suggested that the document be like a trust and the transfer be deemed to take place when TVIC is no longer functioning or a certain date.

June & July TVIC Board meetings cancelled.

08-26-2015 TVIC Board minutes show the TVIC board discusses endorsing 3 TCSD board incumbents in upcoming election. TVIC board approved a motion to endorse them by email to all TVIC members. [This was illegal under the TVIC articles of incorporation Article VII, which states that TVIC shall not "participate in or intervene in any political campaign on behalf of any candidate for public office, and shall not distribute or publish statements with respect to political campaigns."]

September through November Board meetings cancelled. The bylaws require the annual meeting and election of board members to be held on the first Thursday of September. (Bylaws Art. III Sec. 3.)

12-03-2015 TVIC Board minutes show board meeting with 3 members present (not a quorum) and that the board members present agreed that "TCSD has grown into the job of providing the social activities which TVIC used to offer."

2016

01-07-2016 TVIC Board minutes show the kitchen design can't be approved by the planning department as the architect has it currently designed, if the community center is in the SCA

designated zone. Parking lot is on the path to be rezoned.

02-04-2016 TVIC Board minutes show 4 board members present. Handouts - TVIC bylaws revised 8/19/2014. New bylaws provided. Board needs to review and approve them. "When we approve them, Curry will send to the Secretary of State." Discussion of bequeathing the property. "According to California law ... a 501c4 can give the property to a non- 501c3. Timing is critical so that the donation process is not scuttled."

03-16-2016 TVIC Board minutes show "Bequeathing of the TVCC property... "The understanding of the board, based on the governing documents, is that the property can be given without a vote of the members. So the transfer can happen before the annual meeting (September of each year)." ... "New Board Members - we are on hold until the property transfers."

04-07-2016 TVIC Board minutes show the board apparently only discussed Rhubarb Revue and reminded members of special meeting within the week.

04-13-2016 TVIC Board minutes show it was a special meeting of the board to review and approve amended Articles of Incorporation (the agenda called them bylaws). 4 board members present, 4 members of the public present (including Jerry Taylor and Jim Jacobs of TCSD. Amended articles "approved by all in attendance."

May TVIC Board meeting cancelled

06-02-2016 TVIC Board minutes show agenda items - post Rhubarb Revue discussion, bylaws progress, items to discuss with our attorney, plans for history room. 4 board members present. Meeting "followed the agenda" according to the minutes.

July thru December Board meetings cancelled. [The annual meeting of the members and election of board members is supposed to be held in September - apparently it hasn't been held in years.]

07-27-2016 TVIC board submitted the certificate of amendment of articles of incorporation to the Secretary of State. The affidavit says in paragraph 3 that "the foregoing amendments of Articles of Incorporation have been duly approved by the board of directors" and paragraph 4 says "the foregoing amendments... were presented at a Special Meeting on April 13, 2016" and that they were "approved by the required vote of the members." Curry and Olivia signed it under penalty of perjury. [TVIC has admitted through its attorney that there were no meetings of the members in 2016.]

12-14-2016 the Secretary of State stamped the Certificate of Amendment of Articles of Incorporation "filed."  
2017

January thru April TVIC Board meetings cancelled

05-08-2017 TVIC Board minutes show special meeting of the board held at Curry's house. 4

board members in attendance. Good Earth had provided a credit to TVIC which they used to pay for the board's lunch to commemorate the signing of the documents to give the property to TCSD. Item 6 on the agenda - the Secretary of State's challenge to TVIC as a "valid group" reportedly Curry responded but hadn't received a response. Franchise Tax Board also contacted them saying TVIC can't hold nonprofit status without being an active group. "So Curry will have to demonstrate activity." Curry suggested the membership list would prove activity. They discuss mailing out a newsletter to get membership renewals.

#### June thru August TVIC Board meetings cancelled

09-20-2017 TVIC Board minutes show special board meeting at Curry's house. 4 board members present. Discussion of property transfer documents & edits. TCSD would be able to take out a loan on the property limited to making improvements on the property. Kitchen remodel has been held up a year because Planning Dept. requires handicap access to back of stage. Board approves transfer and notary arrives to notarize transfer documents.

09-20-2017 In the evening the TCSD board held a special board meeting at the Community Center to announce that TVIC had transferred the community center to TCSD. The only advance notice of this meeting was apparently a notice on the bulletin board outside TCSD's office.

#### October TVIC Board meeting cancelled

10-30-2017 I sent the TVIC board an email, as a dues paid TVIC member, asking for copies of the meeting minutes of the TVIC board and any membership meetings, beginning in February 2015 through the present. Under Corp. Code Sec. 6333: "The accounting books and records and minutes of proceedings of the members and the board and committees of the board shall be open to inspection upon the written demand on the corporation of any member at any reasonable time, for a purpose reasonably related to such person's interests as a member." If you have them in electronic format you can just forward them to me. I also asked to inspect and copy the record of all the members' names and addresses and voting rights as they existed in April 2016, and also the current membership list. Corp. Code Sec. 6330 gives members a right to request that too.

11-13-2017 TVIC Board minutes show a TVIC board meeting at Curry's house. Three board members were present and one appeared by conference call. Item 4 in the minutes was discussion of hiring an attorney "to figure out what to do with Brenda Grantland's requests. Curry will respond to Brenda that the board will respond to her by the next meeting." Item 7 in the minutes is bizarre - the minutes say "wording of property transfer on page 10 of the 85th Progress." [I figured out what they meant by "wording of property transfer on page 10 of the 85th Progress." The "Progress" was a TVIC newsletter which hasn't been published in years. I was looking on the Tam Valley website and found this page, hidden in the historic documents section of the menu. It contains links to scans of individual pages of the 85th anniversary issue, published in 1996. Page 10 contains only recipes. Page 8 contains a timeline of important events. This page cannot be from the 1996 issue because it lists events occurring in this century. Several of the pages appear to be from a 2006 reissue and update of the 1996 edition. This is probably where page 8 came from, but the typeface shows that someone had whited out the last entry on the page and typed in

"2017 TVIC transfers the Tamalpais Valley Community Center property to the TCSD." Why would the board place an announcement about the 2017 transfer of the property in a page of scans from a newsletter published in 1996, or 2006? To create the appearance that they have given notice to members without actually giving notice?]

12-07-2017 TVIC Board agenda for Dec. 7 meeting: "update on Attorney we just retained to help with the problems brought about by our not knowing the rules." December 7 minutes show the December 7 meeting was cancelled. The meeting was later held on 12-18-2017.

12-08-2017 Curry emailed me the TVIC minutes for 2015, 2016, and 2017 [see downloads below] but stalled on the member list, saying they wanted to give me an alternative as provided by Corp. Code Section 6330c: "Since the privacy of member information is a concern, the code does specify that the corporation may give you an alternative method of achieving the exact purpose for having access to the TVIC membership list. If you are asking for the membership list in order to send information to all of the members, TVIC can request that you send us any communication you want the TVIC members to receive and the Board will transmit the communication, as long as the communication is for purposes reasonably related to your interests as a member of TVIC. Please clarify if that is the purpose you want to use the membership list for. If you are requesting the list for another purpose, please let us know, so we can think about whether there might be an alternative method to address your request." [Note: Section 6330c only gives a nonprofit 10 days to propose an alternative. It had already been 39 days since I requested them.]

12-11-2017 I wrote the TVIC board an email stating: "It is too late for you to propose an alternative to Corporation Code Section 6330c - you only had 10 business days. I asked for the membership list on October 30, and you didn't propose an alternative until Dec. 8. However I might consider letting you send out the questionnaire that I would like to send the other members, but I would want them to send their responses directly to me. They may CC them to you if they want, but I want don't them to feel that they have to show you their responses because it may affect their candor."

12-12-2017 I began getting emails from Ingrid Mittermaier, the attorney the TVIC board retained to deal with my requests. Ingrid admitted on 12/12 that TVIC members had not been informed of the two board actions nor allowed to vote on them.

"Brenda, yes, correct, no member meetings. I think there was confusion as to what exactly was required for these various steps. So, I am advising TVIC to now schedule one or more member meetings to raise the issues and permit the members to discuss and vote on them. Obviously not ideal to do this after the transfer of the property, but I think that is the best we can do right now. Of course, you as one of the members will get the notices etc and are encouraged to participate. You can also arrange with TVIC to send communications to other members ahead of the meeting."

12-18-2017 TVIC Board minutes for the December meeting which had been postponed from 12-7 says the TVIC board retained Ingrid Mittenmaier "to help with the governance issues" and to

respond to "various legal inquiries" from me. The minutes claim "Brenda recently joined as a TVIC member, but was not a member when she requested two years of minutes, incorporation documents and access to current members." That claim is false. I paid my dues online to renew my membership on 9-26-2107, and requested the bylaws the following day.

**Download the source documents below**

TVIC Minutes 2015

TVIC Minutes 2016

TVIC Minutes 2017

TVIC Amended Articles of Incorporation - Amended articles of incorporation which the TVIC board submitted to the secretary of state, stamped filed 12/14/2016

TVIC ByLaws