

Is Tamalpais Valley Improvement Club dying?

by Brenda Grantland, 1-7-2017

This is Part I of a series of blog posts about a local nonprofit I am a member of -- Tamalpais Valley Improvement Club. (<http://truthandjusticeblog.com/tvic-1>)

If you are reading this from a printed copy, go to the link above to download the source documents.

I am a member, and former board member, of Tamalpais Valley Improvement Club. I am also a lawyer with 35 years' experience, and a published author of several legal books.

Recent actions of the TVIC board caused a number of members and former members to be alarmed, and I decided to look into them.

Tamalpais Valley Improvement Club ("the Club" or "TVIC") is a nonprofit public benefit organization, established in 1921 to provide services and address issues of interest to Tam Valley residents. Over the years of its existence, members of Tamalpais Valley Improvement Club raised money and donated or bought property to build parks and other infrastructure for the community, including the Tamalpais Valley Community Center. The Club is a membership organization, and the members were very active in the past, with the Club regularly entertaining and enriching the community with ice cream socials, the annual Rhubarb Revue, and programs with speakers on topics of interest to the community.

When I was on the Club's board of directors in approximately 2001, we had several members events and even when there was not a special program, members often attended the TVIC monthly board meetings at the Community Center.

The Club owned the Tamalpais Valley Community Center but leased it on a 50-year lease, for \$1 per year, to the the Tamalpais Community Services District ("TCSD") - the local government agency that picks up our trash and recycling, services the sewer system, and maintains the local parks.

Under the lease the TCSD would maintain the community center and could use the facility for its own events and rent it out for private functions. The Club got to continue using the community center too, the lease reserving a certain number of days per year for club functions such as the Rhubarb Revue. The Club could also retained the right to use it other times when it was not booked by TCSD.

On September 20, 2017, my neighbor Andy Allen called to alert me to a TCSD board meeting at the Community Center that evening. He had heard a plan was afoot to transfer ownership of the community center from TVIC (a non-profit public benefit organization of which we were members) to Tamalpais Community Services District. This seemed very alarming because TVIC members and the people of Tam Valley had no idea that was even being considered.

At the meeting the TCSD board revealed that it was already a done deal. Earlier that same day, the TVIC board had signed a deed transferring the community center to TCSD for \$1 and the promise to spend "up to \$75,000" of Measure A money to build a room on the community center grounds where TVIC could store historical documents.

This seemed wrong for many reasons, most obvious of which was the way the club's one and only valuable asset was given away in secret. Most TVIC members still do not know about it because the TCSD board meeting at which it was announced was not advertised, and they were not given notice of this meeting by the TVIC board.

I had not been active in TVIC in several years. Ironically, I had resigned from the TVIC board in 2001 or 2002, during a dispute over the community center. The club president got angry with me for opposing her motion to hire an attorney to fight the TCSD over what she claimed was a plan brewing to seize the community center by eminent domain. I thought her fear was unfounded, and, being a lawyer, I researched the issue and concluded it was not likely to happen, even if TCSD tried. She was furious that I would oppose her motion and demanded a unanimous vote of the board. When I abstained from voting on the issue, she threatened to resign if I did not resign, so I resigned on the spot. I quit going to the functions and paying dues.

When I learned that the TVIC board gave away the community center, I was not current in my club dues, so I would not have been given notice and the ability to vote on the decision at that time -- but from what I was gathering, dues paying members weren't given notice and the ability to vote either. Under state law, members of a public benefit organization have a right to vote on decisions to "transfer or otherwise dispose of all or substantially all of its assets." (Cal. Corp. Code Sec. 5911). Though TVIC may have some money in its bank account it is certainly small compared to the value of the Community Center, which is probably worth \$1 - \$3 million or more.

I paid my dues online on September 26, 2017 and the following day I wrote the TVIC board requesting a copy of the bylaws and articles of incorporation. Any member has a right to see them. "Every corporation shall keep at its principal office in this state the original or a copy of its articles and bylaws as amended to date, which shall be open to inspection by the members at all reasonable times during office hours. If the corporation has no office in this state, it shall upon the written request of any member furnish to such member a copy of the articles or bylaws as amended to date." (Corp. Code Sec. 5160).

After numerous emails arguing with me, on October 4, the board finally sent me the bylaws and the currently filed articles of incorporation, which had been amended in 2016. The articles were amended without giving the members of the club the right to vote on the amendment. The Club bylaws say that bylaws can be amended only by a 2/3 majority vote of the club members. (TVIC bylaws Article VIII). Ordinarily that may not apply to amendments to the articles of incorporation, but the TVIC board had merged the articles of incorporation and the bylaws into one document (which is not proper under California law) and had modified the bylaws' provisions regarding the voting rights of members and the board's powers in the combo document which they submitted to the Secretary of State on July 27, 2016. The Secretary of State

stamped the amendment filed on December 14, 2016. The fact that it was accepted for filing does not mean it is valid. Since bylaws were amended by the combo document without a 2/3 vote of the members, those amendments are invalid.

On October 30, 2017, I sent the TVIC board an email requesting the TVIC meeting minutes from 2015 through present and the membership list as it existed in July 2016 and at present. California law gives members the right to view the minutes. "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." (Corp. Code Sec. 6333).

On December 8 Curry emailed me the TVIC minutes for 2015, 2016, and 2017 but balked on the member list, saying they were exercising their option under Corporation Code Section 6330c to propose an alternative to turning over the membership list. However Section 6330c only gives a nonprofit corporation 10 days to propose an alternative, and 40 days had already passed. Their suggested alternative is that they would mail something to all of the members and include anything I gave them. We talked about that a while and they dropped all further mention of it.

The TVIC minutes show the TVIC board and the TCSD board have been plotting in secret since February 2015 to transfer the community center to TCSD. I have not found any TVIC members who knew about this. The attorney the TVIC board hired to "deal with" my documents requests told me there weren't any member meetings during that period -even though they are supposed to hold annual meetings of the members every year on the first Thursday of September. (TVIC Bylaws Art. III Sec. 3).

TCSD manager Jon Elam hired the Meyers Nave law firm to write a memo regarding the legality of TVIC donating the community center to TCSD. TCSD was already renting the community center from TVIC on a 50 year lease which was to expire on 12/1/2044. The rent was \$1 per year. On 2/20/2015, Meyers Nave wrote a memo saying it would be legal for TVIC to give it to TCSD.

TVIC meetings minutes show that there was some discussion about whether TVIC could legally transfer the community center to a non 501(c)(3) organization, when the TVIC Articles of Incorporation and every previous amendment contained language saying TVIC's property was "irrevocably dedicated to charitable purposes." I had heard that TVIC was once a 501(c)(3) charitable organization, but nobody has been able to confirm that for sure. If so, and if the community center was built with donated funds that had been tax deductible to the donors, then it would be illegal to transfer ownership to a non-501(C)(3). It may be that government entities are an exception to that rule, as TVIC's new lawyer told me.

TVIC meeting minutes show urgent efforts to quickly amend the Articles of Incorporation so they could transfer the property, so something in either the Articles or Bylaws motivated the board to make the quick and secret amendment. More about the amendment of the bylaws in the next blog.

I put together a timeline of important events since 2015 from the minutes, which you can find in Part II of this blog series.

My request for the members list has never been honored. That proposed alternative they wanted to belatedly propose fell through the cracks. Their attorney was talking to me for a while, and said she had recommended that TVIC have a member meeting to deal with these issues, after the fact. Before Christmas she stopped communicating with me about it.

I will have to try some other way to find out who the other TVIC members are and inform them of what is going on. I put up these web pages and intend to spread word about the pages around the neighborhood and on Next Door.

If you know any TVIC members please tell them about these web pages.

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Download the relevant documents from the URL at the top of this page.

Packets 1-4 were given out at the 9/20/17 TCSD meeting.

[download id="1282"] - TCSD board meeting summary

[download id="1285"] - 50 year lease

[download id="1289"] - right of first refusal

[download id="1292"] - agreement regarding archives storage structure

[download id="1368"] - Meyers Nave memo

[download id="1362"] - TVIC bylaws