

**Minutes of the Regular Meeting of the Board of Directors
Timber Cove Homes Association
February 24, 2018 at the Fort Ross School**

A regular meeting of the TCHA Board of Directors was held on Saturday, February 24, 2018 at 10:00 a.m. at the Fort Ross School.

Attendees:

Directors:

Ron Case, President
Russell Wells, Vice President
John Gray, Treasurer
Bob Leichtner, Secretary

Melany Collett, Office Manager

Members of the Association

Ms. Collett announced that the wifi remote call-in function at the school was functional. Janet Smith-Heimer was on-line. Thanks to the Fort Ross School for their cooperation.

A copy of the sign in sheet for Association members who attended in person is attached.

The President chaired the meeting; the Secretary kept minutes.

Mr. Case called the meeting to order at 10:10 am.

Approval of Agenda

Upon motion duly made and seconded, the agenda was approved, 4-0.

Approval of Minutes of the January 20, 2018 meeting.

Upon motion duly made and seconded, the Minutes of the regular board meeting held January 20, 2018 were approved, 4-0.

Public Comment

Diane Fedderson announced that a number of homeowners have formed a committee to explore replacing the current home owners association with a Roads Association. She submitted to the Board documents comprising a proposal, with attached signatures

comprising more than 5% of current property owners. The committee requests Board cooperation in developing and communicating a final proposal for a vote of the entire membership. The Board acknowledged receipt of the proposal.

A member expressed appreciation to the Board for the clarity and respectful tone of the minutes.

John Rea who serves on the Water Board and the Volunteer Fire Department, reported on two recent wildfires experienced at the subdivision. Both resulted from controlled burns by property owners as a fire abatement measure. Apparently the burns were not properly attended and managed per required safety procedures. He advised homeowners to read their burn permits and familiarize themselves with required procedures. Mr. Case urged owners to notify the Fire Department of a planned burn.

In response to a question from Mr. Leichtner, it was agreed that the office manager will coordinate with Mr. Rea to post burn safety procedures on the TCHA website.

Nomination and Vote on New Board Member

Mr. Case noted that expressions of interest to fill the Board seat left vacant by the resignation of Eric McConn had been solicited at the last meeting. The only person who responded was Margaret Grahame. Mr. Case asked her to introduce herself to the Board and members in attendance. She has held positions with the Timber Cove Resort, with an emphasis on local community liaison. She was especially concerned about how we can live and work together as a vibrant enjoyable community in a healthy way. She committed to listening with an open mind and heart, and seeking to resolve conflicts respectfully. The Board thanked her for her willingness to serve.

Upon motion duly made and seconded, Margaret Grahame was appointed to serve on the Board, 4-0.

President's Report

Mr. Case briefly summarized topics addressed in Executive Session. Insurance currently in force complies with the limits specified in the Davis-Stirling Act. TCHA will cooperate with the Water Board to correct a defect in recording of the transfer of the Lyons Court property. A formal resolution will be presented at the next meeting.

Office Communications

Ms. Collett announced that annual member dues invoices had been mailed. One real estate escrow has been submitted. She is working to update the website, within the constraints of her limited authorized hours and the backlog of uncompleted work she inherited.

Treasurer's Report

Mr. Gray presented the Treasurer's report. A copy of his presentation will be posted with these minutes on the website.

Among the points noted:

Some operating funds may have mistakenly been deposited in the Bond Fund in the past. We will check and correct as appropriate.

Reserve Funds are at least \$100,000 below historically recommended level. We recently borrowed \$45,000 from the Reserve to fund urgent operating expenses. Those funds will have to be restored.

Operating funds are currently inadequate for a number of reasons: loss of revenue since the secession of Unit 1, transfer of \$38,000 of reserves to Unit 1, higher expenses especially for claims and attorney services, and several years of accumulated inflation without corresponding adjustment of dues. We are still in the process of working with the accountant to bring all affairs current and therefore decided not to change the current annual assessment rate until we have a clearer picture of TCHA needs going forward.

Significant bills paid include the Culcasi settlement compromise, which was required to protect our access to continuing insurance coverage, legal expenses incurred prior to October 2017, recent legal expense, accountant fees, which include work needed to update and synch accounting records since the last professional accounting services were rendered several years ago.

No new bills were currently submitted for Board review and approval.

It was noted that the new Board has not requested, nor paid for, any legal services in connection with the trails dispute. The last significant legal trails expense was for the trail walk conducted in August 2017 as part of a settlement negotiation that remains unresolved. The Board has suspended trails related expenditures, at least until more vital matters are addressed and finances are more robust.

Taxes are now up to date, penalties paid, and the Association is now in good standing with the State as well as with the IRS.

1099's were filed for payments made to J. Howland, H. Clayborn and Mark Mann (road maintenance and repair). A 1099 to Mr. Howland includes payment for 3 laborers on trail construction, for whom we received no W-9 forms. This was a technical oversight, but it illustrates the need for a more comprehensive audit. We will obtain an estimate and seek approval to engage an audit as soon as all required financial reports are complete.

Regarding dues invoicing and collections, there are 213 properties in the association. One is not buildable and no collection is possible. Mr. Case noted prior debt collection practices and liening of properties with serious non-payment history appear to have been suspended for the past few years. Will check into resumption of collection efforts. Current dues invoicing should yield about \$90,000. That will not be sufficient to restore a proper reserve fund, and also cover essential obligations such as office manager, insurance, and road maintenance. An additional assessment will probably be needed.

A member commented that the newly proposed Road Maintenance Association would assure that fees collected for roads will actually be applied for necessary road maintenance and repair.

Insurance update

Mr. Gray noted that in obtaining new insurance in December after our prior coverage was cancelled, the insurer noted that if the HOA was unable to reliably fund continuous maintenance of trails within the subdivision, appropriate signage should be placed to warn trail users that the trails were not maintained by the HOA. In response to a question from Ms. Grahame, Mr. Gray indicated that these signs were required by the underwriter. Responding to a member, Mr. Gray commented that it was his understanding the HOA would be insured for an injury on a trail so long as it complied with insurer requirements.

Mr. Gray and Mr. Leichtner also clarified the facts around the four month lapse of insurance in 2015, and the importance of maintaining insurance that complied with Davis-Stirling requirements to avoid liability to property owners for claims against the HOA. The importance of complete and accurate information in insurance applications was stressed, as well as the sensitivity of promptly reporting possible claims. Careless threats or warnings about lawsuits can be a real problem. If we fail to notify the insurer and a threat turns into a lawsuit, we risk a denial of coverage for failure to notify. But if we needlessly report many un-real threats, we can appear to be an unreliable or risky insured. Ms. Grahame commented that our recent claims history suggests the need for more effective conflict management.

Bond return issue

Mr. Gray briefed the Board on the demand by the LaVenter family estate for return of the bond provided by the owner who procured it, but passed away before completing his home construction. The property was sold, and new owners are continuing with the project, but were not asked to assume the bond obligation. The estate has been seeking recovery of their bond payment for many months, has warned it will file suit if the Board does not return the funds. The board acknowledged that it was unfair to leave the LaVenter estate out of pocket for the amount of their bond, since they no longer owned the property and the project is proceeding without issues. Accordingly, upon motion duly made and seconded, it was agreed to return the bond amount to the

LaVenter estate as requested, 4-0-1, Ms. Grahame abstained because he history of the matter long pre-dates her joining the Board.

Mailboxes

Mr. Case provided an update on status. There was discussion about a suitable location that would provide safe auto access and also be acceptable to the US Postal Service. Volunteers have offered to help with installation.

Community Outreach

Mr. Case emphasized the desirability of broadening community input to the board on priorities and key decisions. The new Road Association proposal is an example of an issue on which we may need various avenues for soliciting views and exchanging information. Ms. Grahame stressed the importance of minimizing complaining and whining and framing input in constructive terms.

Legal Committee

Mr. Case presented a proposal by Mr. Leichtner to establish a Legal Affairs Committee to facilitate timely, accurate and complete communications between the Board and its legal counsel as issues arise. (Proposal attached below). The goal is to make obtaining legal advice more effective, more efficient and less costly. It was suggested that John Gray and Bob Leichtner serve as initial members, since they both have substantial experience dealing with lawyers and legal issues from their professional careers.

Ms. Grahame suggested the value of including non-board members for a broader perspective. Mr. Leichtner acknowledged the value of that approach, but cautioned that increasing participation risks bogging down the process and losing the efficiency and cost control that are a significant justification of the committee. He also stressed that the committee is to facilitate communications only, and will not have independent authority to direct the lawyer or make decisions on legal issues. It will report to the Board, who will retain total authority regarding decision making. After discussion, upon motion duly made and seconded, establishing a Legal Affairs Committee comprising Mr. Gray and Mr. Leichtner was approved, 5-0.

Other business

A member thanked Mr. Gray and Ms. Collett for their hours of hard work restoring order to the Association's financial affairs.

It was noted that with the recent resignations of Susan Moulton and Sue Ellen McCann, vacancies remain on the Board. Interest in serving should be solicited.

There being no further business, the meeting was adjourned at approximately 12:10 pm.

Respectfully submitted,

Robert Leichtner, Secretary

Motion to appoint a "Legal Affairs Committee of the Board" and to appoint Bob Leichtner and John Gray to that committee.

The purpose of the Committee is to coordinate investigation, review and board discussion of pertinent legal matters, including:

1. Governance issues, such as CCRs, Bylaws, Davis Stirling requirements.
2. Oversight of claims and litigation.
3. Managing attorney services and communications.

The purpose and functions of the Committee:

The emphasis would be on gathering and reporting information about pending legal issues, ensuring full and fair exploration of factual and legal questions, protection of confidentiality and attorney client privilege and cost effective use of attorney services.

The expectation is that the two committee members would work in tandem, would relay questions from other board members, and would communicate together with attorneys, in person, or by phone, as authorized representatives of the Board. Their primary responsibility would be to obtain information, to facilitate obtaining timely and well focused attorney advice, report to the President and the Board, and perhaps to recommend actions for Board consideration. They would not be authorized to make decisions or take actions that would bind the Board without first reporting to the Board and obtaining specific approval for such actions. The President would of course be notified and invited to participate in any discussions with lawyers as he wished.

Rationale:

At this point in time, TCHA is beset by numerous serious challenges of a legal nature, including claims and litigation, interpretation of CCRs, questions about the future of the HOA, etc. The community is concerned about the way lawyers have been used, whether attorneys are receiving complete and accurate information on which to base

their advice, and whether attorney advice is being adequately considered by the Board and relayed to the community (within confidentiality restrictions).

Assigning legally-experienced Board representatives oversee these demanding and time consuming functions can improve our ability to resolve matters fairly and conclusively. Asking the President alone to manage all legal questions during a period of so much contentious and risky legal challenge seems unfair and impractical, especially given all his other functions.

John Gray and Bob Leichtner are well qualified to handle this assignment with care and expertise. John's management experience includes substantial involvement in a broad range of legal matters including employment issues, compliance with laws and regulations, management disputes, claims and litigation, and working with attorneys. He combines legal awareness with broad pragmatic management sense.

Bob has been a practicing California attorney for over 40 years, including three decades of service as general corporate counsel for several corporations. He has managed hundreds of claims and lawsuits, from small claims cases to multimillion dollar lawsuits with municipal, state and federal entities, and major national corporations. He has helped draft and revise HR manuals and overseen dozens of employment claims. He has hired, fired and worked closely with hundreds of attorneys across the US.

John and Bob, working together, can help the board cope with pressing legal matters in a thorough, sound, objective and timely way.