

Minutes of a Meeting of the Board of Timber Cove Homes Association In General Session

Held Saturday, May 11, 2019 at 10:00 a.m.
At the Fort Ross School and/or Conference Call

Attendees:

Directors Present:

Ron Case, President
Russell Wells, Vice President
John Gray, Treasurer
Cindy Culcasi, Secretary
Bob Leichtner
Margaret Grahame

Rosemary Gorz joined the conference call at 10:14 a.m., but the conference call was disconnected shortly thereafter due to technical problems.

Melany Collett, Office Manager, was present.

Brett Chairez, CPA/Inspector of Elections was present.

Call to Order

Mr. Case called the meeting to order at 10:05 a.m.

Review and Approval of the Agenda

Upon motion duly made and seconded, the Agenda was approved by the Board 6-0

Review and Approval of Previous Minutes

Upon motion duly made and seconded, the April 13, 2019 minutes were approved 6-0.

President's Report

The Board talked about the legal items discussed with the HOA Attorney. No lawsuit items were discussed.

Counting of the Special Ballots to Raise Dues to \$810

Mr. Case introduced our Inspector of Elections, Brett Chairez, CPA. Mr. Chairez talked a bit about himself. He worked for Jim Ernst for about 8 years and is now practicing on his own. He mentioned it was ironic that he received a call to act as the Inspector of Elections when Jim Ernst had worked with TCHA in the past. Mr. Chairez had a good relationship with Mr. Ernst. Mr. Chairez wasn't sure if everyone was aware that Jim Ernst passed away in early December due to a bike accident.

A member asked if it was too late to vote now. He was told it was too late to vote. Ballots were due May 1.

Mr. Case asked if everyone was familiar with the voting process. There were no questions.

Public Comments

There was a problem with the conference call line. The two members on the line were not able to hear the meeting. The conference call was disconnected.

A member asked about the status of dissolving the HOA. A Board member commented that the Board was not running the initiative. A member representative of the Independent Committee answered and stated the initiative will move forward after the Mother's Day Breakfast this weekend. Many of the members of the committee are participating in the breakfast. Per Mr. Case, the Board has no position on the initiative.

Mr. Leichtner spoke briefly regarding the current Trails Lawsuit. The trails proponents are again making false statements on Yammer that the Board is using member funds to pay outside counsel for work on the trails dispute. That is totally false. This Board (Board first elected in September 2017) has not spent any money on the trails dispute since their election. The recent Newsletter and 10-page memo/analysis was created solely by current Board members. No outside lawyer was consulted or asked to contribute to it. The prior Board (according to our auditors) spent approximately \$30,000 on the trails dispute. This current Board has spent nothing. Mr. Gray clarified that the current Board received a bill in November 2017 (from July/August 2017 legal fees), but the bill was for the legal costs of the previous Board. The false statements need to cease.

Business Items

Treasurer's Report

The Treasurer's Report is available on timbercovehomes.org

Slide 3

- Money received for the special assessment was posted to the special assessment account as an accounting procedure to keep track. The funds received were moved back into the operating account to pay legal bills.
- The insurance refund account also was set up as an accounting procedure to keep track. Approximately \$23,000 has been collected so far in insurance refunds to pay legal bills.
- 2019-2020 dues collected are now up to about \$85,000.

Slide 4

- There was an overdraft from the Bond Account as a result of an automated payment. The overdraft has been corrected. No money is taken out of the Bond Account without Board action.

Slide 6

- Total outstanding unpaid dues from 2018/2019 and prior include 14 properties.

- The Insurance Counsel is working to get back money that TCHA has already paid out to cover legal costs. So far approximately \$23,000 has been paid back to the HOA

Slide 7 - Bills paid in April

- Frontier office phones - \$208.52
- Melany (reimbursement of Secretary of State filing) - \$35
- Bank Fee - \$12 (account ran below minimum balance)
- EDD Payroll tax filing - \$202.22
- Walls Law firm - \$1,050
- Caufield Law - \$3,385 (Insurance Counsel)
- Spaulding Law - \$10,000 (payment for McKay litigation defense prior to insurance coverage)
- Office depot - \$25.00
- IRS Quarterly payroll taxes - \$1,255.70

Total - \$16,173.44

- Payroll

Total expenses - \$19,431.99

Slide 8 - Bills coming due after May 1

- Caulfield Law - Final Bill. Further work is on hold currently. Keeping in mind the cost benefit
- Final payment to Spaulding Law

Upon motion duly made and seconded, the motion to pay the bills was approved (6-0) The conference call was disconnected earlier in the meeting thus Ms. Gorz was not available to vote.

Slide 9

- We are due for a road sweep.

A Board member asked about the savings if TCHA converts to a Roads Association. Mr. Gray said both an HOA and a Roads Association have some overhead costs. It may be difficult to determine what the savings will be with a Roads Association. The Board member mentioned concerns about assuring adequate maintenance of the roads. Mr. Leichtner observed that as a California corporation, currently TCHA is subject to many laws and regulations that must be followed. A Roads Association would not be burdened with some of the administrative and compliance elements of a HOA.

A member is concerned that with only a roads association that some members will not pay, and other members will have to cover the costs. A member of the Independent Committee added that Rolling Hills in Point Arena does have enforcement powers although she did not know the specifics.

Another member of the Independent Committee asked about the Board looking at amending the By-Laws at the same time the Committee is looking at dissolving the HOA. A Board member said these are two separate issues and both can move forward independently.

A Board member stated that a Roads Association is just as vulnerable as the HOA to manipulation. There must be structure in place to prohibit manipulation.

A member stated that people she has spoken to along the coast who participate in Road Associations are still happy with the Roads Association even though not everyone is paying. TCHA roads are not gravel and they are crumbling so they may be more costly to maintain.

A Board member spoke to Seaview Ranch about their roads. Seaview Ranch has no formal roads association and their roads are maintained fine. About 15% to 20% of the residents don't pay for various reasons. A resident told the Board member, their roads were some of the best in the area. A member added that after a rainstorm, the roads may need some work. An Independent Committee member added there is a civil code provision that can be used to compel neighbors to pay for their portion of road costs.

Legal Committee Report – Bob Leichtner

By-Laws - Mr. Leichtner said that TCHA is currently using the 2003 By-Laws although we have discovered they are not valid. The 2003 By-Laws are not valid because they were not voted on by the full Association as required by preceding By-Laws. Another serious defect is that the By-Laws refer to provisions in the CCRs that do not actually exist. The explanation for that is there was an attempt to amend the CCRs in 2003 or 2004 and the members did not approve the changes. The prior Board apparently passed the By-Laws in anticipation of amended CCRs but did not revisit and correct references to the CCRs when the vote failed; thus, they do not correctly reference the current (unamended) CCRs. There are important issues facing the Association, and we need to provide valid By-Laws to move forward.

The Legal Committee discussed the By-Laws with Peter Walls (HOA Counsel). He agrees we need to amend the By-Laws and we will work with him to amend and restate the By-Laws under his supervision. We hope to put Amended Bylaws to a member vote at the next Annual Meeting. The amended/restated By-Laws will be included in the Annual Meeting Packet. The Board wants to come up with something not just valid but more suitable to all members. The plan to amend the bylaws does not affect the possible dissolution of the HOA. The bylaws provide essential standard rules and procedures for Board operations which we need in place whether the HOA is dissolved in 6 months or 100 years from now; we still need valid By-Laws for the HOA as long as TCHA exists. If the dissolution is passed, the HOA would not immediately disappear; orderly winding up of all operations and resolution of uncompleted business will require a number of months to complete because the dissolution would be such a significant and sensitive process, we need to make sure our operating rules are in order and not subject to legal challenge for unremedied defects.

A member asked about the prior attempt to update the By-Laws in 2003 and if we will also update the CCRs. Mr. Leichtner said the Board does not intend to propose amending the CCRs. The Board does not have the authority to amend the CCRs on its own. The Board has stated that it will facilitate the information and exchange of views regarding proposals presented by the Independent Committee proposing dissolution and oversee a fair vote.

The member also asked about a Townhall that would discuss if members are interested in addressing unenforced issues such as camping on their property. Board members stated they were under the

impression that camping falls under the County Laws. The HOA can alert members to applicable rules but have not recently explored what if any power we have to enforce them. The items under the CCRs most substantially have to do with architectural review, maintaining the natural environment of the community, maintenance of roads. Enforcement of County Laws does not fall under the HOA purview.

A Board member said the Camping Policy was recently removed from the HOA website since it was not valid, and the County Laws regulate camping. A Board member spoke with Deputy Mark Provost about camping and was told Deputy Provost would not enforce the camping ordinance. The Director suggested he did not think the County would have a problem with short term camping in a self-contained RV on a member's own property, but he doesn't know for sure. He added he didn't want numerous campers everywhere.

A member added the RVs are supposed to be screened from view. A Board member stated the Board could put out an information piece on camping if needed. Another member who had lived in Timber Cove long term has seen members camp on their property for a week or two sometimes to carry out fire abatement work or just enjoying their land but has not seen long term campers or non-members camping.

Mr. Case commented that currently camping violations are handled on a complaint basis. He did drive through and looked at trailers and camping. There have been a few complaints and they have been addressed informally. A Board member added that of the 100 or so lot owners who have not yet built homes on their lots, but who pay taxes, assessments, water fees, it would be nice if there was some means for them to be able to enjoy their property currently. Perhaps down the road, we could develop a volunteer "buddy" hospitality system of some kind, sponsored by resident members, in which owners of undeveloped lots could be welcomed for guided brief visits and enjoy their property and get an idea of what it would be like if they built on their lot.

Architectural Review - Ron Case

A property owner brought a property with approved plans included. Mr. Case asked the owners to submit their plans for review.

The second item is a septic system. The HOA doesn't review and approve septic systems, it is a county issue.

Office Manager's Report

Ms. Collett is assisting Mr. Chairez with counting the ballots today. There is no report today.

Independent Member's Committee Update

No update today

New Business

Notice to Members - Delinquent Accounts – John Gray

Members not up to date on the special assessment will be sent a notice of their overdue accounts. Some members have already been notified. Members who have not paid will be given a finite time to

pay. Members with delinquent accounts will also be notified that they will not be able to vote in the next election if they are not current by the date of record for that election. There currently are 14 members who have not paid 2018/2019 and prior year's annual dues. There are also about \$40,000 in unpaid special assessments. Any funds collected for special assessments will be added to the Reserve Account. Mr. Leichtner advised that under Davis Stirling (sec. 5658), if a member wants to protest assessments, fees, etc., they must first pay the HOA the amount invoiced, and then they can submit a written request for dispute resolution or file in Small Claims Court. Again, if a member does not pay the special assessment, they will not be in good standing and will not be able to vote. They must pay the special assessment and then file a protest if they wish. The Board will establish a date of record for the coming Annual Meeting and Board elections.

11:25 a.m.

Break

The meeting was temporarily adjourned while the tally of ballots was completed.

12:10 p.m.

Meeting Reconvened

Mr. Chairez presented an overview of the vote count.

- There were some ballots that were not properly signed
- There were 21 ballots that weren't properly authorized, e.g., incorrect APN, no address
- 153 envelopes were presented to Mr. Chairez
- 150 ballots were received
- 1 check was received
- 130 ballots were counted
- Results
 - 93 – no
 - 37 – yes
- Therefore, the proposed increase of annual dues to \$810 was rejected. Dues will remain at \$551.04, as already invoiced. Mr. Chairez will follow up with a written report on Monday. He will bring in the ballots and envelopes to the Timber Cove Office

Mr. Case thanked Brett Chairez for his work.

A Board member asked Mr. Chairez if he has any recommendations

He stated he came to the process late. The way the process as set up with the secret ballot is probably the best you can do. The Board member asked if Mr. Chairez sees an opportunity to improve the process, please let the Board know. Mr. Chairez will review the instructions. He did not see the instructions prior to counting the ballots.

A member said that Sea Ranch uses 2 envelopes. There were some disagreements whether 2 envelopes were a better process or not. Mr. Leichtner discussed some ideas for expediting vote counting for the Annual Meeting election. There was some discussion about the timing of voting. Mr. Chairez will be involved in discussing the process for the Annual Meeting.

Adjournment

The President adjourned the meeting at 12:18 p.m.

Respectfully submitted,
Cindy Culcasi, Secretary