

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

Held Saturday, July 9, 2022
Fort Ross School, 30600 Seaview Road, Cazadero
In Person & Zoom

Attendees:

Directors Present

Ron Case, President
Rosemary Gorz, Vice President
John Gray, Treasurer
Cindy Culcasi, Secretary
Bob Leichtner
Margaret Grahame
Richard Mogford

Call to Order

Ron Case called the meeting to order at 10:05 a.m. This is the first in person meeting in over two years.

Each Board Member introduced themselves to the members.

Per Davis Stirling, the meeting is recorded to assist the Secretary with the minutes. The recording will be deleted once the minutes are approved.

Review and Approval of the Agenda

Upon motion duly made and seconded, the current agenda was approved by the Board 7-0

Review and Approval of Previous Minutes

Upon motion duly made and seconded, the May 7 minutes were approved 7-0 with a correction on the reference to a Public Comment by John Gray.

"Between warring parties" was added after the statement that \$500,000 was spent. The location of moved trail was changed from similar to "almost identical."

Community Report – Ron Case/Melany Collett

The office is currently closed. Contact information is posted on the Lyons Ct. office door and also available on the office phone message (707-847-3062). She can be reached on her cell phone (707-823-5384) and email (timbercovehomes@gmail.com). Ms. Collett is currently working from home. If a member has a check to drop off, they can use the mail slot in the door

at the office or the mailing address (22098 Lyons Court, Jenner, CA 95450). She checks the office a couple of times a week for checks and mail

It was noted that there are 6 new escrows pending this week.

Public Comment

A member read a letter regarding public trails from her husband. The members have an easement on two spots on their property. The trail on her property has never been developed and much of the trail is on the edge of a cliff. Trying to install a fire break on their property will invite trail goers to walk on their property creating a large liability risk for the members. These members have discussed the trails with many of their neighbors in Unit 2 and the overwhelming majority would like to reject the trails since they create liability and privacy issues. There are many trails nearby in the State Parks so Timber Cove doesn't need trails. The members request a vote on the trails of yes or no. She thanked the Board for the opportunity to express their concern.

A member talked about the recent court case that was decided. He said the trails have been around for years and that there hasn't been a problem. These are private trails for members' use. The member said we need to move beyond the lawsuit. He believes that the majority of members want to keep the trails since they are just for us. People use the trails to stay off the road to walk their dogs, etc. We need something to unite us, and the member is tired of this old feud.

A member said 3 trails supporters intruded on his property without permission or notice. He caught them in his cameras. They were trimming trees and dropping the trimmings. One person carried a handful of trimmings out. These people are not considerate of their neighbors. The member sent an email explaining his concerns to the 3 people. One of the comments he received back claimed that California Code Section 845 said if the easement is not maintained, the property owner can be billed for maintenance costs.

A member stated that she has recommended hosting a block party for our community a couple of times. She is happy to organize the block party and, hopefully, it will pull everyone together. She suggested a location at the end of Koftinow. She also thanked the Board for their action on the RVs. She is ok with RVs temporarily onsite while a member is building.

Two members who own an undeveloped lot on Umland Circle stated they have an RV on the property. They parked the RV so they could keep their tools in it because they are currently carrying out active fire abatement cleanup activities. The member said the only way he and his wife can work on fire abatement efficiently is to have the RV on the lot. He believes that this type of owner effort is what the community needs since fire abatement and lot maintenance are benefits to the entire community. He suggested that the Board amend the CCRs to include

RVs as appropriate. The member was surprised by the violation because of the need to mitigate the high fire danger. The member would like the Board to get owners to proactively manage their lots like the County, State, and CalFire recommend. He would like the HOA to treat RVs on a case-by-case basis and not send a blanket violation notice to all RVs. A Director responded to the member's comments. The Director noted that the HOA is beginning a more careful enforcement of the CCRs than has been done in years. We started out with a prudent, practical approach that we are now trying to refine. The Director noted that the things that the member is raising, particularly fire abatement and allowing temporary RV use to facilitate performing fire abatement need to be taken into account. The CCRs don't address fire abatement, but we have enough flexibility the way the Board interprets them to take this into account. All the alleged violations sent to members will be carefully reviewed on a case-by-case basis as we refine the process. The Board aims to work out ultimate resolutions that he hopes will be suitable for everyone. A neighbor of that member said they are ok with the RV on their property.

A member asked if the County land use requirements apply to the HOA. A Director responded that the CCRs comprise limited private contractual requirements and don't replace the County requirements, they supplement them. County requirements continue to apply.

A member asked about PG&E cutting down trees in the easements and not cleaning them up. Do they have a permit? A Director spoke and said to contact District Supervisor Lynda Hopkins about this issue. People are also complaining to her office about this. The State requires that they keep the easements clear of tree hazards, and this is why they are cutting trees.

A member stated she is not worried about the RVs, but people who come up and camp with a tent year after year aren't improving their lots.

A member said when RVs are allowed, it provides an opportunity to get to know neighbors. He would love people to stop by and say hello. This is an opportunity to grow the community and get to know each other.

A member asked if there is a way we can all get together and address the issues about privacy and still have the trails.

A Director said we all have to be good neighbors, and if a neighbor doesn't want you to walk their trail, there are other routes to walk. The Board is trying to weigh all the issues and work things out. We hear both sides. For example, as we've heard, some complain Timber Cove is turning into a trailer park and others don't object to RVs on lots.

A Director said TCHA can create guidelines about cutting trees. PG&E is a different issue that we don't control, and they are most likely cutting trees in their easements.

A member asked if the Board had anyone that specializes in State and County fire abatement? A Director responded that the Board does not have an expert on hand, but we comply with the County and Timber Cove Fire Protection District guidelines.

A member noted that some people have used open fire pits, campfires, use charcoal kettle grills, etc., and all are a potential source of dangerous sparks or embers. Regardless how well you maintain your property, windblown sparks can travel widely, and Timber Cove can be gone in a blink of an eye. A Director asked members to check timbercovehomes.org under Board/Board Meetings for the link to SoCoAdapt. This Sonoma County website has lots of information, including grant information to help with fire abatement.

A member stated he has a house on Gordon Court and is in the process of cutting a tree. He stated that your own assessment that a tree is dead may not be sufficient for the County. You may need to retain an arborist. He is in the process of removing a few trees and it is a painful process. One is a redwood tree, and the permit is still in process.

A member stated that when they had Sonoma County Code Enforcement on their property, the Code Enforcer asked his cutting plans for next year. The member responded he was going to cut dangerous ladder fuel and was told he still needed a permit. He pointed out members need to submit a tree cutting request to the Board prior to cutting anything.

A Director explained that for a number of years, the Board reviewed and approved all tree cutting requests. It wasn't until the last couple of years that the County started getting involved. TCHA has spoken to the County about the established process and requested that we continue to implement the approval process as we have done for a number of years. We thought we had an agreement, but they haven't come back with a clear answer yet.

Director Margaret Grahame noted she is now on the Board of Sonoma County Tourism. Sonoma County Tourism is now running two town halls to hear your voices about tourism on the Coast. They will help Sonoma County plan for the future. The details of the virtual meetings will be in the CHCP email. Or you can contact Ms. Grahame directly. Her email is on the timbercovehomes.org website.

President Ron Case stated this extended Public Comment was very good and he liked hearing from everyone.

Introduction of Board Candidates – Cindy Culcasi

Cindy Culcasi noted the candidate statements are available to read on the timbercovehomes.org website.

Margaret Grahame read her candidate statement to members. She has been a full-time resident of Timber Cove since 2013. A few highlights:

- Ms. Grahame has been employed at the Timber Cove Resort since 2014

- She served on the Board of the Timber Cove County Water District
- Ms. Grahame is currently a member of the Sonoma County Tourism Board.
- She chose to serve on the TCHA Board because she cares about our community.

Richard Mogford introduced himself. A few highlights:

- Mr. Mogford and his wife moved to Timber Cove from Gualala (Anchor Bay) about two years ago
- He works full time for NASA remotely
- He is President of the Local Amateur Radio Club. The Club maintains a system of radio repeaters for safety and emergency communications along the north Coast.
- Mr. Mogford is trying to consider ways to bring the Community back together.

There were comments by the Directors regarding the importance of voting. If we don't receive a quorum of at least 108 ballots (there are 215 lots) by September 8th, we will be required to adjourn and reconvene the meeting, which will cost additional money. Therefore, please be sure to send in your ballot and vote.

Business Items

Treasurer's Report – John Gray

The Treasurer's Report and Budget can be found on the TCHA website timbercovehomes.org

- As of July 1 - Total Operations and Reserves - \$182,395.60
- Total Accounts Receivable - \$42,607.15

Withdrawals for May

- Intuit QuickBooks - \$139.00
 - Cindy Culcasi - \$26.31 (expense reimbursement on office expenses)
 - Walls Law - \$1,659.60
 - State Workers Comp Fund 2nd half - \$534.94
 - Chase Credit Card - \$960.19 (mailing supplies, copies, postage)
 - Payroll - \$2,795.70
- Total - \$7,204.00

Expected Bills for June

- Frontier office phones - \$274.00 approx. (2 months)
- Intuit - \$139.00
- Legal retainer - \$20,000.

- Payments from Road Fund totaling approximately - \$80,000, repairs including Lee Drive, Ninive Drive, Ansel Court, Lyons Court (from Road fund previously approved)
- Payroll TBT on hours

Upon motion duly made and seconded, the Board approved payment of the bills 7-0.

Withdrawals for June

- Intuit QuickBooks - \$229.00
- Frontier - \$279.80 (2 months)
- Miller Star Regalia Law Firm - \$20,000.00 (Legal Retainer)
- Wire fee - \$25.00
- HOA Election experts - \$1,455.00 (annual election)
- Chase credit card - \$1,509.27 (Certified mail on CCR Violations)
- A&L Asphalt - \$13,400.00 (New seal coat Ninive Drive)
- Payroll - \$1,757.80
- Vacation Payout - \$1,581.55
- State Payroll Tax - \$647.68
- Walls Law - \$320.40

Total - \$42,882.66

Expected Bills for July

- RCX Road contractor - \$59,800, Lee Drive and misc. repairs
- Intuit QB - \$135.00
- Frontier - \$135.00
- Chase - \$3.00
- Payroll TBD on hours worked

Continuing Business

Legal Update – Legal Committee

Bob Leichtner spoke about the trails and noted this is not a simple issue, There is a lot of passionate controversy around it. There are more than 60 lots having pedestrian easements on their properties. The easements don't increase the value of the lots and could be potential detriments. Some members have concerns about infringement of their privacy as you have heard today during Public Comments. Others feel the trails are an asset. The recent litigation was narrowly focused on trail (easement) rights on one lot and the judge kept the focus narrow and that was discussed in the proceedings. Mr. Leichtner has followed the case since the beginning. The judge's ruling recognizes private easement rights for residents of Unit 2. It did not create rights for residents of Unit 1. The Association was not a party to the lawsuit, and the Court earlier ruled that non-parties were not bound by its decision. The Court did not consider or address the rights or powers of the Association regarding the private easements and there are differing opinions regarding TCHA and what rights they have vs. the rights of individual property owners. These unresolved questions are why TCHA has found it necessary to retain

counsel. The Association has no legal obligation to rely on statements made by the trails proponents or published on the Trails Website. The judge's opinion is the only legal guidance we have currently, but it leaves a lot of questions unanswered.

Some of the issues may have serious financial consequences under certain scenarios. For example, if someone falls on a trail and injures themselves, they might sue anyone, e.g., the trails advocates, property owners, HOA. Whether or not the HOA is exposed to financial liability or has insurance for such claims has not been resolved. The trails website refers to California Civil Code Section 846 (recreational immunity) which addresses immunity from liability a property owner might face if they allow someone to access their private property for a recreational purpose. That is just the Trails Website interpretation, they have not cited actual attorney advice. 846 does not apply immunity to cases where the injured claimant was expressly invited to enter the property. The focus of the statute is narrow and only covers property owners that don't invite people to use the trails. Since the Association is not identified as a property owner, we are not confident we would be able to benefit from the immunity in 846. That could be a big problem for us. Also, the Trails Website does not explain that the immunity does not prevent anyone from being sued, it is simply a defense that a party who is sued can raise during the lawsuit. These are questions that call for actual expert attorney advice, not layman speculation.

The Board can't make rules about how a person protects their own private property, but the Board can and should take reasonable measures to help protect the Association as an organization from liability lawsuits. We may appear to be a big target and that is why we are trying to get protective advice from an attorney. If the trails advocates have retained a lawyer that issued an opinion on the immunity statute that supports their claims, it would obviously be helpful to share it with all of us. A member asked if an easement is an invitation? Mr. Leichtner noted that what constitutes an "invitation" legally is a good question. The mere existence of the easement may not, but a published invitation encouraging folks to walk the easement routes is a different matter. A member asked if statute 846 covers private easements and Mr. Leichtner noted that is not clear and is one of the reasons we retained counsel.

A member asked if there was ever a lawsuit over the trails. Mr. Leichtner was not aware of any, aside from the recent litigation, and noted there hasn't been much use of the trails over the past 50 years. They were never developed by the subdivider, who publicly disclaimed any intention to create recreational facilities or any other amenities except for the roads. There was some effort by volunteers to develop a few hundred yards of trails after 1998. A member said that Bob Leichtner is incorrect, and the trails have been used since 1965. The member said the trails were a major community activity in the 80's until around 2004.

A Director noted he spoke with the TCHA Office Manager in 2009, and was told the trails were never developed, were only lines shown on a map, and not very many people even knew where they were.

TCHA is asking the lawyers to help clarify these issues. We want to understand what is in the best interest of our members and adequately inform them. All the questions might not be readily answered.

Mr. Leichtner said that some members have complained to the Board about comments by the trails advocates that incorrectly state what the judge ruled. The judge said the trail rights are intended for property owners in Unit 2 who relied upon the Unit 2 map which shows pedestrian easements. The trails are not a benefit of Unit 1. A member stated that the judge didn't exclude Unit 1. Mr. Leichtner pointed out that Unit 1 was created prior to Unit 2 and has no pedestrian easements on their own subdivision map. There are no words anywhere creating trail easement rights in Unit 2 for the benefit of owners in Unit 1.

Comments have been made on the Trails Website that pedestrian easements can serve as fire evacuation routes or fire breaks during a fire. That is not what the fire department says. Members of the Board have talked with the Fire Chief on more than one occasion, and they have said that the roads are the only designated safe fire evacuation routes. Fire personnel will be doing safety checks on homes (using the roads) to make sure people got out. They will not be checking trails.

Ron Case followed up and noted that the Board is working to address these issues.

A member in the audience commented that a lot of people don't know that they have an easement on their property because they have raw land. They recommended obtaining liability insurance even without a house on their property. The commenter also added that in the recent trails lawsuit plaintiffs who sold their lots in Unit 2 during the trial were dismissed by the Judge because that meant they could no longer claim easement rights in Unit 2.

Roads Update – John Gray

Ninive was completed and it looks good. Cost was \$13,500 for the job. Lee Drive was also completed. The cost is about \$55,000. We are waiting for the invoice for the exact cost. There was extra work done on the south end of the road (about \$4,500) since it was in very poor shape. Work was also completed on Timber Cove Road and Ansel Court, and also Lyons Court. RCX will return next week to fix the edge of Lyons Court where the pavement is crumbling. These were the most pressing problems. John Gray recommends that the Roads Committee get back together to address some issues on Smith Court and Harriette Court. This is the first time in 4 years that our Reserve Fund was sufficient to perform significant road work.

A member spoke about a lot across from them on Umland Circle where trees fall across the road all the time. She asked if the Association could clean up these trees and branches that fall on the road? John Gray responded that a small amount is budgeted to clean up trees that fall. Sometimes the Fire Department cleans up trees free of charge. Mr. Gray has worked with neighbors to clean up trees over the years also. He also said that they can be turned into Fire Safe Sonoma to be inspected. Richard Mogford and John Gray will go and look at the lot and suggest next steps.

Architectural Guidelines Update – Next Steps

Ron Case noted he understands that the Architectural Guidelines need to be updated; Bob Leichtner has offered to assist. There is no update today.

Update – Tree Cutting Policy – Ron Case, Margaret Grahame

This issue was discussed during Public Comments.

CCR Enforcement Update – Ron Case, Bob Leichtner, Cindy Culcasi

This was discussed during Public Comments

Updates from Sonoma Coast MAC Meeting/Local Coastal Plan – Cindy Culcasi, Margaret Grahame

Cindy Culcasi gave a couple of highlights from the May MAC Meeting:

- There was a focus on the Coastal Coalition that works with communities along the Coast to perform fire abatement.
- There was a discussion with the Sonoma County WiFi Team about WiFi for the Coast communities and how to bring it to residents of the Coast and address issues like Frontier and the quality of the WiFi.

Pampas Posse Update – Richard Mogford, Anne Vernon

There will be an update next meeting. Information regarding how to eradicate pampas grass is available on our timbercovehomes.org website under the tab Board of Directors/Board Meetings.

New Business

Homeowner Fire Abatement Activities – Bob Leichtner, Cindy Culcasi

Bob Leichtner reminded members we are in the extreme fire season which will run at least until November. Anything members can do to protect their home (30 – 100 feet clearance of vegetation) which includes clearing dead trees, tan oaks, brush, etc. will benefit the entire community, as well as their own homes.

Be careful with open sources of flames. Keep in mind that pulling your car off road over grass after a long drive can start a grass fire. Sparks and windblown embers from any source can easily cause a fire. It's good to alert the Fire Department if you smell smoke or are concerned about possible fire. The phone numbers are in our website timbercovehomes.org on the home page.

Email Notifications – Cindy Culcasi

About 25% of members have given the HOA their email addresses. Please email timbercovehomes@gmail.com to get on the distribution list. We will be sending a request for email addresses later in the year. We need your consent to send notifications to you via email. That's a mutual convenience and potential cost saving. We are striving to get close to 100% of member's emails for our notification distribution list.

Annual Meeting Update – September 10 – Cindy Culcasi

Ms. Culcasi noted a couple of items:

- The reason we are sitting outside of the multipurpose room of the school is because their Wi-Fi only extends to the door. There is no Wi-Fi inside the room.
- We would like to continue with the hybrid meetings (Zoom and In Person). About 8 to 10 days prior to a meeting, we'll check the weather forecast and try to determine if conditions allow us to meet outside.
- You'll be getting a letter about a month before the Annual Meeting that will include your ballots.

A member asked about Wi-Fi for Timber Cove and the possibility of getting a grant. Cindy Culcasi said to contact the Access Sonoma <https://sonomaedb.org/current-initiatives/broadband> to share your concerns since they are very involved in the Wi-Fi issues.

A member shared that Frontier received a grant to improve the internet in the community which included Timber Cove. They did not follow through to use any funds for Timber Cove.

A member stated that members should look into a repeater, especially if you use Verizon. For non-Verizon cell phones, a member can purchase an antenna to put up and point it towards the cell tower near Salt Point State Park. Members could use a hot spot via their cell phone. Verizon users whose bill is sent to a Timber Cove address can call and request a free repeater.

Adjournment – Ron Case

Upon motion duly made and seconded, the meeting was adjourned at 12:05 pm.

Respectfully submitted,


Cindy Culcasi, Secretary

Participant List

1. Lisa Melo
2. George Melo
3. Pam Duarte
4. John Duarte
5. Erik Kuhrman
6. Sandrine Kuhrman
7. Judi Bowers
8. Thomas Sgrenci
9. Anne Vernon
10. John Rea
11. Jianna Satore
12. Steve Tuscher
13. Kristen Anderson
14. Susan Williamson
15. Roger Simpson
16. Stu Drake
17. Doug Uboldi
18. David Levin
19. Linda Wiles
20. Alex Kramer
21. John Howland
22. Jennifer Greenstein
23. Susan Zanetell
24. Mike Zanetell
25. Lisa Klerman
26. Chris Feddersohn
27. Melany Collett
28. Gena Wade
29. Steve Tuscher
30. Matt Dwyer
31. Atiya Dwyer