

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

A regular meeting of the TCHA Board of Directors was held on Saturday, March 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  
Margaret Grahame

Melany Collett, Office Manager

Members of the Association

Ms. Collett announced that, unfortunately the wifi remote call-in function at the school was not functional, notwithstanding prior arrangements. Mr. Leichtner suggested that it might be worth a modest courtesy payment to ask a school staff member familiar with the wifi set up who lived in the vicinity to stop by at the commencement of each meeting to help ensure the system is functional.

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 10:09 am.

**Approval of Agenda**

Upon motion duly made and seconded, the agenda was approved, 5-0.

**Approval of Minutes of the February 24, 2018 meeting.**

Upon motion duly made and seconded, the Minutes of the regular board meeting held January 20, 2018 were approved, 4-0-1; Ms. Grahame abstaining.

**Public Comment**

Diane Feddersohn noted that parties interested in the proposal to dissolve TCHA and replace it with a roads maintenance association had met and were working to develop a detailed proposal. They would appreciate an opportunity at the next regular board meeting to provide an update on their plans.

A member noted that he wished to reserve an opportunity to comment later in the meeting so that he could address items when they are raised.

### **Appointment of New Board Member**

Mr. Case informed the Board that Rosemary Gorz had provided formal notification of her interest in serving on the Board. She had been expected to attend but was delayed. Ms. Grahame requested a written statement of interest. Mr. Leichtner and Mr. Wells informed the Board that each had spoken with Ms. Gorz about her interest, found her to be well qualified, motivated to serve the community and committed to work with care and impartiality.

A few minutes later, Ms. Gorz arrived. She apologized for the unavoidable delay, and introduced herself and her husband, Norm. They have been members since 2007. She has had a professional career of 35 years with major technology companies, with a variety of responsibilities including marketing, customer service and account management and troubleshooting. Ms. Gorz answered questions from the Board. She appreciates the work of the new Board and wishes to contribute and engage the community. Her goal is a peaceful, private community, responsive to all resident She hopes to work with the Board to continue its efforts to solve current problems, but she is also open to an alternative approach such as the Roads Association if it gains member support.

Whereupon, after motion duly made and seconded, the Board approved appointment of Ms. Gorz to the Board, 5-0. Ms. Gorz assumed her seat on the Board.

### **President's Report**

Mr. Case briefly reported on the Board's meeting in Executive Session.

A suggestion by the former treasurer that the Board formally publish a supplemental report she had prepared to accompany the minutes of the January meeting had been declined after conferring with counsel. Financial clarification or updates she had offered had been considered and addressed by the Treasurer in his report. Mr. Case noted that the Board was cognizant of plans publicized by Timber Cove Trails.org, a trails advocacy group not affiliated with TCHA. We have consulted with our insurers regarding the status of the trails, and how to make sure the Association adequately addresses liability issues in connection with trail usage. Details will be discussed by the Treasurer in his report. The office manager and the Treasurer have noted that files

have been deleted from the computer over recent months without authorization; the computer has been checked and security improved. More measures may be required.

### **Office Communications**

Ms. Collett noted that dues invoices had been mailed and payments were coming in at a good rate. She is working with the Treasurer to update billing records and ownership information. Three escrows are in progress. The Annual Davis-Stirling 5300 information package will be out on time.

### **Treasurer's Report**

Mr. Gray offered his report accompanied by a power point presentation.

A reserve study was recently performed by Tom O'Neill, an expert who performed the last TCHA study in 2014. He was very thorough and actually drove the roads to observe conditions. In addition to his basic evaluation, he commented that the transfer of \$38,000 in Reserve Funds from TCHA to Unit 1 after their secession in 2015 seemed highly questionable and disturbing. As confirmed by the recent Reserve Study, the Association must restore \$45,000 in funds recently borrowed from the Reserve Account to fund current operating costs by January 2019. Additionally, even after the funds are restored, the Reserve Study indicates the Fund will still be underfunded by \$25,000 in terms of reasonable requirements to fulfill its purposes. To close that \$70,000 gap, the Association will need to levy a special assessment of approximately \$336 per parcel before year end.

Regarding operating expenditures, Mr. Gray commented that a budget should have been prepared for 2017-2018, but neither he nor our CPA had been able to find one. He has prepared a budget for 2018-2019.

A number of factors, including the significant loss of revenue from the secession of Unit 1, a high level of legal expenditures, especially for the Todd-Culcasi incident investigation and indemnity payout, trails disputes, \$10,000 in tax delinquency penalties, as well as unaddressed cost of living increases for several years, make clear that current dues levels are inadequate, and must be increased. The last dues increase was seven years ago. The Board has authority to increase the annual assessment up to 20% without a membership vote, according to Davis Stirling. That means we anticipate an increase in next years assessment per parcel to approximately \$550.

Mr. Leichtner commented that an additional complicating factor was that the Association had just been served with a lawsuit within the last two days, which it was reviewing with legal counsel. More information will be released after that review. Defense and resolution of that suit will likely further drain Association funds.

Several members questioned whether these adverse financial developments could be attributed to breaches of fiduciary duties by past board members, and whether the

Association should try to recover losses from the responsible parties. Mr. Leichtner commented that to answer those questions would require engaging legal counsel. As already noted, the Association is already severely short of funds, and we cannot fund that investigative effort at present. We are planning an audit, which may shed more light on these questions. A couple of members suggested that the members had the right to sue on their own if they believed they had been harmed.

Ms. Collett reported on administrative and bookkeeping updates, with encouraging news. The substantial accumulated unpaid dues amount from 2017-2018 that she encountered in the summer of 2017 has now largely been collected. Payments are coming in on the recent 2018-2019 dues invoices. \$8500 previously misallocated to the Bond Account is being shifted to operating funds. Ms. Grahame emphasized the importance of focusing energy and funds on constructive purposes such as overdue road maintenance.

Mr. Gray provided an update on insurance matters. He had discussed with our broker insurance coverage for liability related to trails in the subdivision. Both the broker and the underwriter visited the subdivision to view the trails, including attention to the newly improved John Sperry Trail. They wished to observe conditions and verify we had posted signage they had requested. They also reviewed a copy of the 1965 Subdivision Map which includes the Owners' irrevocable easement dedications to the County and the County's rejection of the grant of the pedestrian/equestrian easements. Based on their review, they modified their prior advice regarding signage and advised us that they did not see that TCHA actually owned the trail easements and that we should disavow any responsibility for trails on the part of the Association to avoid assuming liability. They cannot cover us for property we do not own or control. They are not lawyers, they are commenting from the perspective of insurers advising us about protecting the Association from claims and cautioning about what they will and will not cover.

Upon the conclusion of the Treasurer's Report, upon motion duly made and seconded, the Board approved the budget for 2018-2019, 6-0.

### **Legal Affairs Report—Trails Questions**

Mr. Leichtner and Mr. Gray briefed the Board on their review of a briefing book provided by the prior Board, as well as documents and legal opinions regarding the status of claimed equestrian/pedestrian easements within the Subdivision. As noted above, the 1965 Subdivision Map contains a formal irrevocable dedication of various easements to the County. It also contains a certification by the County that it accepts the dedication of Road and utilities easements, but it expressly rejects the grant of pedestrian and equestrian easements. No other document has been brought to the Board's attention that specifically grants any trail access rights to the Association or any other private persons. Subdivision reports filed by the developer specifically disavow any intention to create commonly owned recreational areas, other than roads. Therefore, it appears that neither TCHA as an organization, nor any public or private group, has been granted a current right to use trail easements across the privately-owned lots within the

subdivision, unless the owners specifically consent to such access. Opinions by prior HOA legal counsel, Sonoma County counsel, and Sonoma County PRMD all support this conclusion. Legal opinions offered in support of the trails do not address the grant and rejection by the County, and the absence of any other express for private use, evidenced above.

Mr. Gray and Mr. Leichtner circulated a draft report discussing the issues and explaining the Board's findings in detail. They also presented legal documents and opinion letters they relied on. The Board discussed the findings and recommended notifying the Sheriff of the Board's determination that it does not believe the HOA has been granted trail easements over privately owned lots, and that owners may complain of trespass if their property is crossed without their consent. The interior roads are valid easements and may be used for pedestrian access. Upon motion duly made and seconded, the Board approved distribution of the Memorandum and Exhibits to the members, posting on the website, and notification to the Sheriff, 6-0.

### **Community Outreach**

Mr. Case and Ms. Grahame reported plans for a questionnaire being prepared to canvas the community, online and by mail, regarding priorities and positions on major forward-looking questions. Ms. Feddersohn can supply prior survey examples.

Proposals for replacement of the Association with a contractual road maintenance organization were mentioned earlier by Ms. Feddersohn. More will be forthcoming.

### **Community Enhancements**

A team has been assembled to begin construction.

The Resort is negotiating with Tesla for three electric vehicle charging stations.

An update was provided on the recent survey to support a grant for faster broadband access.

There being no further business, the meeting was adjourned at approximately 1:10 p.m.

Respectfully submitted,

Robert Leichtner, Secretary