

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

Held Saturday, January 11, 2020 at 10:00 a.m.  
At the Fort Ross School

## **Attendees:**

### **Directors Present:**

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

## **Call to Order**

Ron 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 7-0.

## **Review and Approval of Previous Minutes**

Upon motion duly made and seconded, the November 9, 2019 General Session Minutes were approved by the Board 7-0.

## **President's Report – Ron Case**

The President's Report covers what happened in the Closed Executive Session. The contracts for both insurance and the Financial Review were discussed.

## **Office Manager's Report – Melany Collett**

Five escrows have closed in the past 20 days. This also added \$125.00 per lot to our TCHA funds.

There is a Coastal Plan Meeting on Wednesday, January 15 at 5:30 p.m. Margaret Grahame noted that the County will present the update on the Coastal Plan. The Coastal Plan is the structure that will guide the coast communities, including Timber Cove, over the next 10 to 20 years. For example, the plan will include development, rentals, tree cutting, noise, traffic, septic tank policy, etc.

Ms. Collett noted that a related survey will be sent to the members soon. Ms. Collett will be putting the survey together to request the information needed. The survey is requested by the County. It is not a request for personal information and will be sent out under lot number and not name. The survey will gather information regarding the number of homeowners, renters, full time residents and other related

information. Ms. Grahame added it will help the County understand the makeup of the community and what our needs might be. Please call Ms. Collett if you have any questions.

Ms. Collett announced that the Water District will be flushing the entire Timber Cove Water System. An email will go out within the next couple of days (below is a partial clip of the announcement)

TCCWD will be flushing the entire Timber Cove distributions system. This annual flush is key to an excellent water distribution system. The flush will remove any silt or debris (sand, rust and biological materials) that have settled in the pipes. This debris contributes to restricted flow, turbidity problems and water quality i.e. taste and odor. The hydrants will be open fully for 5-10 minutes each.

### **WHAT TO EXPECT?**

Your water will; be turned off for a short period of time. We estimate flushing up to 50,000 gallons during this time. This will prevent back siphonage of your home. Flushed water will be dechlorinated. You may see water on the roads. If you experience brown water, spot leak, or notice excessive air in your home pipes please call the office number listed below.

### **Dates and locations**

#### **January 22, 2020 - 1 pm-3:30 pm**

*Affected streets-* Frost, Cundall, Hudson, Rust, Davis, Ansel, Harriette, Timber Cove Road, Signagio and Lyons Court

#### **January 29, 2010 - 12 pm-4:30 pm**

*Affected streets-* Ruoff , Gordon, Kofinow, Umland, Bufano, Pine, Cypress and Amanita

#### **February 5, 2020- 1 pm-2 pm**

*Affected street -* Lee Drive

If you have any questions please contact : Timber Cove County Water District 707-847-3880 or email to [admin@tccwd.org](mailto:admin@tccwd.org)

### **Public Comment**

Ron Case talked about the lack of a good heater in the Lyons Court Office. When he goes to the office, it is always very cold, and the staff must wear coats and hats. Mr. Case asked Chris Feddersohn if the Water Board has any plans to address the lack of heat. Mr. Feddersohn said an electrician was recently hired and added an outlet so an electric heater could be plugged in. Previously fuses would blow when electric heaters were in use. Mr. Feddersohn suggested that a better heater be installed since the amperage is available to support it. He also suggested that the HOA and the Water Board split the cost. Mr. Case will follow up with Mr. Feddersohn later. Mr. Feddersohn also added that a toilet will be installed shortly.

## **Business Items**

### **Treasurer's Report – John Gray**

Mr. Gray delivered the Treasurer's Report. The PowerPoint presentation of the Report will be available on the [timbercovehomes.org](http://timbercovehomes.org) website under Board Meetings.

#### **Highlights:**

- Slide 8, December Report - Walls Law billing was normal legal costs, e.g. Bylaws, operations, guidance. There were no costs regarding the lawsuit.
- Slide 6, January Report – The macro payment for \$15.00 was payment for a subpoena request for documents from the Strickland Law Group representing Carmen McKay. We tendered the subpoena to John Fitzgerald (our attorney) to release certain documents. He said it was standard procedure to cash the check. The request was for a document that John Howland referenced in a March 2019 meeting thus being not privileged since he should have not been aware of its existence. The subpoena was given to our attorney for follow up.
- Slide 9, January Report - The Frontier phone bill has increased significantly. Ms. Collett suggested TCHA cancel their second phone since it isn't needed. It was originally used by TC security which is no longer in place. That will save about \$100 a month. It was decided that the additional phone line isn't needed, and Ms. Collett will cancel the service.
- Slide 9, January Report - The transfer of \$781.24 from the checking account to the Special Assessment Account is a result of a member sending in their regular dues and special assessment in one check. The funds were moved to the correct account for accounting purposes.

**Upon motion duly made and seconded, the Board approved 7-0 to transfer \$1,800 from the Bond Account and \$18,200.00 from the Special Assessment Account to the Road Reserve Account. The remaining \$5,000 payment to fully replace the borrowed Road Reserve funds due will be delayed for 2-3 months.**

**Upon motion duly made and seconded, the Board approved paying the bills 7-0.**

#### **December Bills:**

- **EDD - \$137.89**
- **Office Depot - \$25.00**
- **Frontier office phones - \$247.68**
- **Payroll - \$3,520.95**
- **Total bills - \$3,931.52**
- **Transfer from checking to Emergency Assessment Account - \$781.24**
- **Total Withdrawals checking - \$4,712.76**

There was a discussion regarding the drop in the cost of insurance. A Director cautioned that if we receive further claims or threats of claims, we will be required to report them to our insurer. That could harm the community and the cost of our insurance may increase again.



John Gray summarized the cost of the McKay Lawsuit:

- We estimate the insurance companies have paid about \$300,000 in legal defense costs and settlement payments on the McKay Lawsuit. The total paid equates to more than 10 years of premiums at our current cost which is approximately 5-6 times higher than the historical average.
- A member asked if the Bylaws now require mediation and the Board confirmed yes, mediation is required prior to filing a suit. This requirement helps mitigate our extremely negative recent claims history and high insurer cost burdens and should make TCHA a less risky client to the insurance company.
- The Bylaws also require that known criminal conduct cannot be indemnified.
- The insurers just settled the prior Directors out of the McKay lawsuit for \$135,000. TCHA had previously been settled out for \$40,000. To date, the current settlement total is \$175,000 paid to McKay; her claims against Hannah Clayborn remain pending, as does Clayborn's cross complaint against TCHA for indemnity.
- Our insurers have paid out \$21,000 as a partial reimbursement to TCHA for legal defense costs incurred before the insurers assumed our defense. Greg Spaulding was paid out \$15,000 directly
- TCHA paid out of pocket about \$150,000 before the insurers agreed to assume our defense. About 40% of TCHA out of pocket was to pay an insurance counsel to obtain coverage from our past insurers. The overall cost incurred thus far to defend the McKay lawsuit is roughly estimated to be approximately \$450,000 to \$500,000.
- If TCHA had not received funds from the Special Assessment, we would not have been able to retain counsel to obtain insurance coverage for us and would have faced a default situation. Without the contributions of our insurers obtained with the Assessment, settlement, and legal defense (or an even worse jury verdict) could easily have cost about \$1,200 - \$1,500 per lot or possibly more. The Special Assessment wasn't frivolous or unjustified, it has already protected the members from much more severe litigation costs. Without the insurance counsel, the cost to the members would have been much greater.
- Settling for \$175,000 clearly indicates this is not a frivolous lawsuit as a few have ignorantly claimed. Insurers don't pay a plaintiff \$175,000 unless they are concerned the cost will be much more if it goes to trial. Additionally, the insurer is still out of pocket the attorney's fees paid and we don't know the total cost for that piece of the complaint.
- The "Truth in Timber Cove" email that was sent to many members in October 2017 was the primary cause of this lawsuit and cost the community and its insurers almost \$500,000. It was malicious, misleading and totally destructive in its effect.

A member asked if there is a code of conduct in the new Bylaws. Mr. Gray responded that there is a code of conduct requirement in the new Bylaws, but there was not in the old bylaws.

The \$135,000 settlement by the previous Directors is a formal statutory 998 settlement under California Law. It means the defendants offering the 998 settlement accept entry of judgment in favor of the plaintiff and agree to pay a sum of money to the plaintiff to settle her Complaint against them; and there are no other terms included. A 998 is a public document. The attorney for the prior Directors offered a 998 settlement offer and Carmen McKay had 30 days to respond and accept the agreement and she did accept it. There is a formal record on the Sonoma County Court website that can be viewed.

A Director noted that it is possible that one or more of the defendants that were just settled out might not have paid the special assessment, but still benefited from the insurance coverage it obtained for them.

A member requested that a newsletter be sent to the community recapping the lawsuit. He said that many members are still confused about who the players are and the results. A member was concerned this might create more animosity. Mr. Leichtner suggested that after the Clayborn Cross Complaint is resolved, TCHA may send out a factual report explaining the results. When the Clayborn Cross Complaint is settled, the present litigation will be completed.

John Gray covered the updated Annual Budget as of 1/20 which is available on [timbercovehomes.org](http://timbercovehomes.org) under Governing & Business Documents. Mr. Gray mentioned that the new Bylaws require a monthly update on TCHA finances.

TCHA will be favorable by about \$10,000 on budgeted legal fees, which is a positive. Road maintenance has improved since we picked up additional funds from saving on legal fees and office costs. TCHA is now in the black by \$51,225.20, much better than last year.

A discussion ensued about the special membership voted upon last year to raise the annual dues by more than 20%, which failed. It appears that at this point we will not need to raise the annual dues this year by another 20%. Last year it was anticipated that a further 20% raise in dues may be necessary. TCHA is living within the current budget which is barebones. We did postpone more robust roads maintenance and cut back availability of staff. However, the hope is we won't have additional excessive legal fees in the future.

A member asked if TCHA pays rent to use the Lyons Court Office. When Lyons Court ownership was moved from TCHA to TCCWD, the agreement stated that no rent would be paid by TCHA. TCHA spent around \$92,000 on the building including bringing the office up to code after it was red tagged prior to the transfer. A member also mentioned that there was a discussion about selling the office prior to the transfer. A member asked if TCCWD pays dues to the Association for their property in the subdivision and Mr. Gray responded that they do pay annual dues.

Ron Case discussed the return of a Performance Bond to a member. Generally, it appears that documentation from the County is requested for release. The member has not received the final inspection documentation from the County yet. The outside of the house is finished, but there is still work to be completed inside. The member said she believes she only needs a working bathroom to obtain a final sign off from the County. Mr. Case stated the bond is to ensure the road is in good condition after construction and the house is completed. He will visit and look at the house and surrounding area. Mr. Gray said his understanding is that the house is completed to the plan and the surrounding area is in good condition. Mr. Leichtner asked if there was a legal document that is signed, and what the legal document covers. Melany Collett added that this property had one document completed for the performance bond. On this property, the performance bond was different. It did not



specify the definition of completion. The bond was transferred from the previous owner of the lot and was more of a handshake without much detail.

Mr. Leichtner doesn't want to hold up this member, but we need to determine how we handle return of bonds as a general matter. Additionally, we need to determine what defines the completion of a home. Mr. Case asked what exactly is needed to return the bond money. Going forward, the Board needs to determine the process to ensure consistency. The member suggested the return be tabled so the Board can clarify the process. Mr. Gray suggested the Board look at the actual bond agreement and then we move forward.

Chris Feddersohn said there used to be a \$1,000 landscaping agreement for screening. When the screening was completed, the \$1,000 was returned to the homeowner. A Director suggested Mr. Gray look at the actual bond agreement and get back to the Board. Mr. Leichtner said the bond return should not be subjective but based upon a standard that isn't just an opinion of the Board.

#### **Legal Report – Legal Committee**

Legal issues were updated during the Treasurer's Report

#### **Architectural Oversight – Ron Case**

Ron Case said he would discuss the Performance Bond issue with the Architectural Oversight Committee which is comprised of Mr. Case, Chris Feddersohn, and Margaret Grahame. The Committee will make a recommendation for the policy after discussing and reviewing.

#### **Appointment/Re-appointment Committees (Legal, Roads, Architectural Oversight) – Bob Leichtner and Ron Case**

Ron Case said we haven't had money to maintain the roads until recently. Mr. Gray said he would like to meet with the Roads Committee (John Gray, Sharon Bonelli, Sal Culcasi, Ron Case), to discuss what the plan is going forward, and do a ride around the community. Bill Seymour has volunteered to participate in the ride around since he is familiar with the roads and history. A member added it is standard procedure to have a potential bidder participate in the ride around.

#### **New Business**

##### **Review Tree Cutting Policy - Cindy Culcasi**

Ms. Culcasi is maintaining our [timbercovehomes.org](http://timbercovehomes.org) website and she has been reviewing the documents posted and trying to organize things. She looked at the Tree Cutting Policy and it is way out of date. Ms. Culcasi suggested that the Architectural Oversight Committee review the Tree Cutting Policy and update the policy and bring it up to date. A discussion ensued regarding how out of date the policy is.

A member stated there is a tree hanging over the mailboxes on Ruoff. The tree is ready to fall on the mailboxes and could take them out. A member said the owners live in Arizona and may be getting ready to sell the property. The HOA has no say over the trees on the property since the property is in Unit 1. A member suggested that the CCRs need to be updated prior to updating the Tree Cutting Policy. Mr. Leichtner responded that the CCRs are overreaching, impractical and way out of date, but amending them is extremely difficult. The CCRs state that a member can't cut a tree without approval

of the Association. He believes that there is room for the Board to interpret the CCRs reasonably and set a more reasonable policy on, e.g. security, screening, etc. Ms. Grahame said the Coastal Plan would also impact the policy regarding cutting redwoods and endangered species. Mr. Leichtner stated all of this would be considered when updating the policy.

This discussion will start the conversation to update the policy. The Architectural Oversight Committee will discuss the policy and next steps.

#### **Facebook - Cindy Culcasi**

Ms. Culcasi is suggesting that Facebook page belonging to TCHA be deleted. She does not have the time to monitor Facebook and believes the existing [timbercovehomes.org](http://timbercovehomes.org) is sufficient. Melany Collett has the password and said there were about 5 or 6 postings a week. The last post that Ms. Collett did was about the Halloween Party. There are people visiting Facebook and not posting. There is concern that someone may go on the page and rant. Ms. Collett has turned on the approval function so that a post must be approved prior to a post becoming public although comments do not have to be approved, they can be deleted by the site admin. She has not seen any controversial posts. She does not have the time to monitor closely and agrees the [Timbercovehomes.org](http://Timbercovehomes.org) is sufficient. A member suggested that anyone might try to setup an unauthorized Facebook page for Timber Cove Homes Association. A Board member agreed that could happen, but we should still delete the existing Facebook page.

Ron Case asked if any members see a positive for keeping the Facebook profile. No members responded that the profile should be kept. Ms. Collett added that the profile would be available to turn back on for 120 days.

**Upon motion duly made and seconded, the Board resolved to shut down the Timber Cove Homeowners Association Facebook page and approved 7-0. Melany Collett will shut the page down after the meeting.**

Ron Case said there is a suggestion to hold board meetings less frequently than every month. More discussion will follow in future meetings.

#### **Adjournment**

The President adjourned the meeting at 11:32 a.m.

Respectfully submitted,

Cindy Culcasi, Secretary

