

**TIMBER COVE HOMEOWNER'S ASSOCIATION MEETING**  
**Ft. Ross School Auditorium**  
**July 15, 2017**  
**10:00 am – 12 noon**

**Directors Present:** Tim McKusick (President); Susan Moulton (Secretary/Parliamentarian); Sue Ellen McCann (Treasurer); Eric McConn (Director); Russell Wells (Director)

**Absent:** Joe Pearson (Vice President), L. Moretti

**Property Owners Present:** Katie Seymour, Claudia and Tom Giacinto, Diane and Chris Fedderson, Linda Willes, Sal and Cindy Culcasi, Charles Swanson, John Gray, Robert Holcum, Stu Drake, Nancy and Andy Carlson, Lynda Saldana, Carolyn Abst, Ron Case, Ann Vernon, John Rea, Scott Black and lawyer, Bob Ferguson, Robert Leichtner, Lloma Alameda (*Note: Attendance sheet missing at end of meeting so list is incomplete.*)

**Call to Order:** July 15, 2015 10:05

Members were asked to introduce themselves and non-members, identify themselves. Mr. Black's lawyer, not a member who was also at the last meeting, led to a discussion of Davis-Stirling regarding who could attend meetings. When asked, non-members declined to leave. TMcK noted that two directors had to leave by noon and we had two months worth of business to complete since we lacked a quorum for our June meeting.

**Approval of Agenda:** SM moved, TMcK 2<sup>nd</sup>; approval unanimous with additions of Gallo Lot Discussion; 22123 Lee Drive Performance Bond and Mailboxes under Old Business.

**Approval of Minutes:** TMcK moved, SM 2<sup>nd</sup>; approved TMcK, EMcC, SM ayes; RW and SEMcC abstained

## REPORTS

### 1. **President's Report** (T. McKusick)

- 1.1. **Executive Session Summaries:** A) Discussion in our June Executive Session with a decision to indemnify our employees, was followed up on indemnification of employees, California State Labor Code and decision to pay legal costs for our Roads Manager. Our legal counsel advised us it would cost the HOA much less to settle than to go to court to take action against the insurance company; B) Discussion of personnel contracts for Fire Abatement; interim Security is Stephen Drapkin who has been filling in for Nicholas for several years; and Election overseer, Marina Harb. Audience comment. C) •TMcK moved, SM 2<sup>nd</sup> that we open up a conversation with Anne Vernon to engage in settlement discussions regarding our trail easement. Unanimous approval. Much audience discussion of the lawyer's recommendation regarding required indemnification and payment of legal fees.

1.2 In response to a question from the audience T. McK reported that our suspension caused by an oversight unknown to the board until recently was lifted and IRS concerns from three years ago had been successfully resolved.

1.3 TMcK listed the responsibilities of HOA Director from Davis-Stirling: the principle is the position is to promote the health, happiness, peace of mind of the majority and each unit owner must give up a certain degree of freedom of choice. The specifics are listed in our TCHA By Laws. Discussion of Davis-Stirling Compliance Requirements and Standard of conduct of Board Members and the responsibilities as defined in the HOA By Laws are available on our website. Audience comment.

1.4. **Open Board Seat:** resignation from Joe Pearson after the Executive Session. The Board needs enough members to make a quorum and cannot conduct business outside of a meeting, so we are discussing this today. Much audience comment. [Two motions to nominate replacements so the Board would have enough members to do its business before the election.](#) Tom Giacinto and John Gray presented their qualifications and concerns about the HOA. The two motions for board nominations were defeated. ([Both votes, 3 nays: RW, SEMcC, EMC, 2 ayes: SM, TMcK](#)) [Motions defeated.](#)

- [RW moved to accept resignation of J. Pearson; EM 2<sup>nd</sup>. RW, EMcC, SE ayes, SM TMcK abstain. Motion to accept resignation passed.](#)
- [SEMCC moved that we delay filling the open seat and fill it through general election; 2 candidates who receive the top votes would be elected for 3 years, and the third would be for one year. Unanimous approval.](#)
- [Several people in the audience asked about the Director's responsibilities and the time involved. Shouted loud comments, noisy interruptions and booing from the audience. Parliamentarian reminded disruptive members they would be asked to leave if they continued to disrupt the meeting.](#)

**2. Office Communication (SEMCC)** SEM reviewed correspondence: requests around information around legal expenses, insurance coverage, letter from a property owner re. trespassing, clarification around indemnification, suspension, resignation letter from CMcK, organizational workflow, past election, ideas opinions about use of email list; when mailboxes are going to be put in, questions about reimbursement of our Road's Manager's legal fees and indemnification, question about insurance coverage, recent events in Timber Cove, new language for Board minutes; request for general information. Several comments from the floor about these communication topics.

**3. Architectural report** (J. Howland) Approval for construction on 22112 Umland Circle is complete.

**4. Security Report:** S. Drapkin, (interim):

He has been filling in for NL for the last few years. Generally: it has been an uneventful month; no trees were down. A few residents were camping on their lots for a night or two; the gate at Ninive has been left open on the South end. Lots of tree work going on. Dogs were loose in front of Rudy residence on Hudson. There is a leash law for dogs in Sonoma County that applies to Timber Cove.

**5. Fire Abatement Report:** T.Giacinto reported the TCCWD and HOA are in the process of writing up additional people whose lots are in violation of the fire ordinance. A couple of people with larger properties have not responded to the ordinance and notices. After discussing the procedures in place they are waiting for the attorney to get a warrant to proceed. TG has been in process of trying to get grants to help people with forest management and fire abatement. The newly created non-profit Foundation will help with all the issues of fire abatement and can help with community development. They will proceed contacting people not paying attention but most people are cleaning up their lots and it is looking better. CalFire will help us with the Wild land Fire fee. All property owners will be asked if Cal Fire can cut 15 feet back from road at the edge of their property. This will be very helpful in buffering a fire that might start accidentally from the road. They are sending out letters with next TCCWD newsletter. Owners can sign up with Cal Fire who will meet with them personally. Right now everyone is responsible for clearing brush and vegetation right to the edge of their property including the culvert. TMcK reported Marshall Turbeville is supportive of our efforts to clean up our lots. We need to widen the roads for fire safety and are hoping to begin that process soon. Questions from the floor about signing up for the Cal Fire Chipping program. including Mr. Black who had been evacuated from his home in Santa Barbara due to a fire early that morning reported he now supports the fire abatement efforts.

**6. Treasurer's Report (SEMcCann) (attachments):**

6.1. Budget update: SEMcC: We are 2 years into our new fiscal year; the majority of dues have come in; we are reconciling various lists to determine what dues are outstanding from this year and previous years; we have been in contact with a collection agency to facilitate that. We are going through an in-depth financial review of the last 3 years that should be done in the next 4-6 weeks. This has required a lot of work and time.

6.2. Payment of Bills: RW noted entry of \$7,000 for legal fees.

•SM moved; TMcK 2<sup>nd</sup> we pay the bills. Unanimous vote to pay the bills. SM commended SEMcC for the almost full time job she has been doing over the last three months to reconcile the budgets and accounts over the last 3 years and to streamline and professionalize the process.

**7. Trail Report: (H. Clayborn) (handout)**

The trail work weekend May 27 and 28 was a great success resulting in the newly opened John Sperry trail, a beautiful trail that compares favorably to any county or state park trail in our area. It is a tribute to avid hiker and beloved community member, John Sperry who died July 2, 2015. John Sperry was a founding member of the Timber Cove Trail Supporters. Because the general membership was not notified of the work weekend, only trail committee members received notification from the Trail Committee Chair, despite repeated requests to notify the homeowners. Thus, paid workers were needed for a third day to complete the section to Frost Court. The total labor costs were \$2,520 for the steepest, most dangerous areas of the trail. Many thanks to those who did including Eric Tamm, Eric and Katie McConn, Jodi Sperry, Roger and Claire Simpson, Tom DeLange, and John Howland. and others. Tom brought his expertise as a supervisor of trail development in El Dorado County and contributed a charming resting bench on the trail. Because we have not yet posted signs, please review the Powerpoint pdf, "How to Use Your New Trail," on the TCHA website. Choose "Trails" from the top menu. Vacation schedules and planning for the Annual Meeting will delay work to complete the final short trail section from Frost Court to Lyons Court until September. An official trail dedication or the new John Sperry Trail is tentatively set for Sunday, August 27 the day after our Annual Meeting. Report repeatedly interrupted by members from the floor who were asked to please stop or they would be asked to leave.

**8. Roads Report (BT):** TG reported that he had secured a number of bids for the roads and we are ready to deal with widening key sections and repairing potholes and damaged roads. They have identified the places in most need of repair and which are important for emergency exiting for property owners in case of fire.

**9. Water District (T.Giacinto)** reported the TCCWD meeting included their lawyer who clarified the Brown Act requirements for members. JR handed TG emails to our attorney for Brown Act violations; the attorney determined were no violations. They are considering purchasing a property and creating a water school that would get a lot of work done for free; students would pay money to work there; they are looking into a business plan to see if it would work and if it would be a good investment. After review it was found that \$200,000 is unaccounted for in the accounting system; it occurred under past boards whose records were destroyed by the office staff when she left, so it is impossible to see what happened. J. Howland has done a fine job of finding money owed bringing almost \$100,000 back to the TCCWD. They are still trying to get an accurate audit. The price of water went down a little; they are trying to get it down more. Lorrie Uribe is making sure protocols for increasing costs or charging fees is being done legally. Fire Abatement applies to the entire water district that includes old Unit 1 and other properties outside the HOA. There are now fairly routine Fire Abatement results: bids are going out; many more residents are cooperating. County funding was obtained through workforce programs. There is a Public Hearing on the 29<sup>th</sup> at Ft. Ross School. Comments, questions and discussion from the floor.

## **10. Communication: (S. Moulton)**

She apologized to those who have received unsolicited emails and contacts, including those who opted out. There have been many complaints from people who do not like the emails they are receiving and have asked again to be blocked from emails they believe are very negative and do not want to receive. There will be a summer newsletter coming out soon after the Directors complete the work to get the election underway. In the absence of clerical help the directors have had to step in and do the normal routing office work, including two searches of communications requested by Anne Vernon and John Gray. The Facebook page and TCHA blog on Yammer will be updated soon as well. Various comments shouted from the floor about positive member response to the unsolicited emails.

## **OLD BUSINESS**

**1. Internal Dispute Resolution Policy (S. Todd):** Sylvia Todd reported she was asked to update our IDR policy while she served on the board; after experience using the IDR policy adopted years ago it was clear that we needed to update it and clarify the process. Based on that experience, the key words “minimal cost” and new Davis-Stirling rules she was directed to look at the procedure. (Attached; posted on our website soon). The revised Proposal was presented to the board as a first reading draft several meetings ago; the IDR is the first level of complaint. A member or the Board can initiate the IDR process. 2 representative board members appointed by the board, and the property owner with his/her representative. The goal was to keep costs down; if the HOA initiates the IDR, the member can choose not to participate; if the member does participate, the Board must attend. •SM moved, TMcK 2<sup>nd</sup> we adopt the changes. Discussion. This is a First Step before Alternative Dispute Resolution Policy consideration. At this first level the issues are able to be discussed by the petitioner and his/her advisor; two board members appointed by the board engage in the hearing and come up with a resolution which is proposed and presented to the Board. If it is not accepted by the Board, the members may then go to ADR, which is the Second level of discussion and this can involve attorneys, if needed. If the petitioner brings an attorney to IDR, the HOA is required to also involve their attorney. The recommendation is that whenever a homeowner requests an IDR they are sent a letter confirming the request and setting a date for the meeting. The letter would include language asking for advance notice if the owner intends to bring a lawyer to the meeting. It would also state that bringing an attorney without prior notice would result in rescheduling the meeting so the association’s legal counsel could attend. And it would include a statement that the member will be charged the fee for the association’s attorney. B. Leichtner wants more time for him to consider this. Various other member comments and questions. Commendation for Sylvia Todd’s work on this. Proposal will be posted on website. Old policy is also there.

•SM moved, SEM 2<sup>nd</sup> we approve policy pending approval by our HOA attorney. All ayes, RW abstain. Motion passed.

2. **CC&R Draft Summary Report** (L. Saldana/S. Todd) deferred due to time constraints. Draft will be reviewed by our lawyer before presented for consideration and discussion. Explanation that this was a “Cliff Notes” version of our CC&Rs to make them more readable for the members; no substantive changes would be made.
3. **Compliance Language for Core Values (R. Wells, S. Moulton, SE McC)**
  - R. Wells moved: “Upon being notified of a complaint of a breach of the CC&Rs, the TCHA will investigate and remediate it, *if, and only if,* such violations are visible from outside the property in question, or are otherwise a publicly verifiable nuisance to others, or in some way a verifiable threat to the community. Complaints based on observations that could only be made by trespassing will not be pursued.” Motion dies for lack of a second.
4. **Gallo lot discussion;** TMcK clarified that this HWY 1 lot was held out of the HOA by Richard Clemens. When he bought it, Mr. Gallo opted in to the HOA and TCHA jurisdiction. He originally asked for a refund from dues years of accrued dues. Now he said he doesn’t care about money, but would like to opt out.
  - SM Moved, TMc 2<sup>nd</sup> we recognize his desire to opt out and make it so. Unanimous approval.
5. **Performance Bond:** TMcK was contacted by the sellers of 22123 Lee Drive asking for a return of their \$10,000 Performance Bond. The \$10,000 is still in our account. Our building guidelines note that the bond moves with property, so it cannot be returned.
6. **Mailboxes:** TMcK reported that Ron Case submitted drawings of the proposed expansion of mailboxes. Has done a nice job with first cluster of boxes. We are only at about 50% build-out so we need to accommodate for new residents in the future. Discussion of funding. Only new architectural submittals will be billed for the costs of additional mailboxes. USPS says it will take 3 months for the key process. SEMcC and EMcC will help with purchase and installation of boxes. Several comments from audience, including requests to be on “Wait List” for mailboxes.

#### **PUBLIC COMMENT (11:50)**

The Feddersohns were concerned about mailboxes sprouting up along HWY 1 outside the bank of boxes now there and that that looks bad for the community. John Gray had concerns about the Executive Committee reporting at the last meeting about the payment of legal fees for our Roads Manager. In response to online discussions and queries at the meeting Sylvia Todd noted that BT acted in self defense; the counts of perjury were not pursued against Mr. Culcasi in order to hopefully allow this community to move on. Feelings do not change the facts. Please call or email her with any questions you have or clarifications you would like and she will answer your questions to the best of her ability with

supporting documentation.

TMcK noted we were already past noon and several directors had to leave for appointments that they had announced at the beginning of the meeting. There had been public comment throughout the meeting.

•SM moved, EMcC 2<sup>nd</sup> meeting be adjourned. Unanimous vote. Meeting adjourned 12:10.

\* In response to concern from J. Gray about the Minutes and information from the Board, RW, SEMcC remained to hear comments from audience. SM stayed for 5 minutes then spoke with members outside who expressed concern about the comportment of some of the members in the meeting and their worries about becoming the target of apparent on-going cyber-bullying if they spoke up and were very concerned about the misinformation they believed was being spread by a group of people who wanted to eliminate the trails, to dissolve the HOA and to expand t Air B&Bs that are changing the nature of the community. Anne Vernon expressed concern about comments made between directors in private board emails she had acquired.