

**TIMBERLINE COVE  
ANNUAL MEETING  
OCTOBER 3, 2009**

**MINUTES**

1. **Call to Order.** The meeting was called to order at 10:03 p.m. by President George Hart.
2. **Attendance and Quorum.**
  - A. 21 owners representing 14 units were in attendance. In addition, 14 proxies were received for a total of 28 units represented either in person or by proxy.  
  
A quorum was established.
  - B. Representing Mountain Managers were Phil Wells, Susan Witkowski, and Judy Freese (via conference call).

George Hart noted that he expected a 4 hour meeting in order to give owners an opportunity to bring up and discuss issues. He also thanked Robert Levin for getting the food (continental breakfast before the meeting and sandwiches for later).

3. **Approval of Minutes from the 10/4/08 Annual Meeting.** A motion was made, seconded and passed unanimously to approve the minutes as written.
4. **President's Report.**

George spoke about what the Board has worked on this past year. They spent a great deal of time looking at the budget. Last year a dues increase and an assessment were done in order to meet rising operational costs and to bolster the reserves. The Board has worked hard to reduce costs and negotiate lower rates on some items. Gas rates have been locked in for much lower than the budgeted amount and usage has been reduced as well. Work continues on the Ocoee/CFC issues. There was an additional problem discovered in addition to the original punch list of work needing to be done on common areas. Water was getting into the elevator room and south stairwells. When this was originally backfilled, the drainage/grade was not adequate and water is now coming in through the cement. This can result in crumbling cement and rusting of re-bar. Ocoee is repairing this.

Extensive work has been done on the MCR (reserve account) to ensure it is as accurate as possible. At this time, funding is not adequate to maintain the complex. The Board is keeping a close eye on this. No dues increase is planned at this time and it is projected that anywhere from \$9,000 to \$19,000 will go into reserves.

George explained to owners that the Board communicates with each other outside of regularly scheduled Board meetings. They are working extremely hard to keep Timberline Cove in good shape both physically and financially.

George asked the other Board members to add their comments.

Duane noted that the issues with Ocoee/CFC go back 2 years. We're running out of time to get the parking lot low spots fixed this year – hopefully by the end of October. A lot of time has been spent on walk throughs with CFC, writing letters, etc. in a concerted effort to get items taken care of and the Board continues to follow this closely. Two things have been accomplished – stairwell water and some landscaping issues (dead trees/shrubs).

Some improvements have also been done including the fence on the east side to prevent foot traffic through the property and the purchase of a good luggage cart.

Robert stated that most of last year was spent on the Ocoee/CFC issues.

Jerry Frazee was appointed to the Board to fill the remaining term of Julie Neils who sold her unit. Jerry stated that the Board is doing a great job and he is looking forward to working with them.

Mark Hull stated that his comments had already been addressed by the other Board members.

Phil Wells was introduced to the membership as the new owner of Mountain Managers. George noted that he had gotten up to speed pretty quickly on the many pending and on-going issues concerning Timberline Cove. Phil spoke briefly about his background in property management and landscaping and his prior experience in dealing with HOA's. So far it has been a smooth transition. Phil was asked how many HOA's Mountain Managers currently manages (35). He noted that the company is large (only Wilderrest is larger) but small enough to maintain that "personal touch" that's so important. He would like to continue to grow but has every intention of keeping the business to a manageable size. All staff members have remained in place and everything is progressing well.

George noted that Mountain Managers has done a fine job in supporting the HOA. He stated that it normally takes 3 to 5 years to get into a smooth rhythm from the time the developer turns over control to the homeowners. Mountain Managers has been very helpful to the Board and to owners. George also stated that if owners do not want anyone to access their unit they need to contact Mountain Managers and let them know. Unit 305 does not want anyone going into his unit. It was noted that when dryer vents were repaired, there was no access for 2 units who had vents in a locked owner closet. Weekly security checks are available at no additional charge. This is an extremely good idea for absentee owners since a weekly check of an unoccupied unit can sometimes identify a potential problem before major damage occurs. Currently, only 3 units have signed up for security checks. A question was asked about checks of occupied units (rentals). Mountain Managers will not just barge in – staff members will knock before entering.

5. **Repair and Maintenance Report** was reviewed by Phil Wells. The report covered the period of 9/08 through 8/09 and listed all items over \$250.00. The report was attached to the meeting packet so owners could review. Phil spoke about several items:
  - A. An energy audit was completed by Indoor Environmental Services and was money well spent.
  - B. The sidewalk was replaced next to the dumpster. This was a slip hazard and needed to be addressed. The HOA paid for the work and then billed CFC. They agreed to pay half the cost. The balance was split between Mountain Meadows and Timberline Cove with TLC paying 55% and Mountain Meadows 45% (Mountain Meadows shares the dumpster/trash pick up/related maintenance with TLC). A question was raised on why CFC did not pay the full amount. Originally Eric Gill had

received a verbal OK to proceed from a CFC employee. CFC later contended that the employee did not have the authority to authorize the work and they felt the cost was too high. It was noted that a settlement has been negotiated with CFC – this will be discussed in more detail later in the meeting.

- C. The dumpster doors were not functional and repair was essential. The doors were replaced with the expense split between TLC and Mountain Meadows 55%-45%. These new doors still did not function as well as hoped. CFC is now replacing the doors with new bi-fold doors at their expense. It was noted that TLC has been reimbursed for nearly all expense.
- D. Bike storage hooks were installed – the developer paid for half the cost.
- E. Deck rails were painted. A better product was used and it is hoped it will last 2 years instead of having to be done every year. Trex/synthetic products were looked at but these are very expensive and not as aesthetically pleasing. Unit 306 noted that the paint has already worn off due to water dripping from the roof. Mountain Managers will check and see if this is a gutter or roof problem that needs to be addressed.
- F. A new hot tub cover was purchased. The wrong one was sent and has been replaced with the correct one. Phil said the one that was the wrong size will be kept for use in an emergency. It was noted that it looks like only ½ of the 2 piece cover was replaced.
- G. Sod was installed at the back of the building. The Board and Mountain Managers will continue to work on landscaping.

6. **Financial Report.**

- A. August Financials and year-to-date numbers were reviewed. On the income side, dues (income) were under the budgeted amount due to on-going issues with unit 102 and Ocoee/CFC.

On the expense side, utilities are down \$931 for the month and \$6,750 year-to-date. Part of the electric savings are due to ½ the lights being turned off, heaters turned off or down, the elevator room heater set to a certain temperature, and the door fixed so it does not stay open. A sensor system was looked at for the garage but it was felt that lights need to remain on all the time due to safety concerns. Ex-Cel can do a free audit on the garage lights and it is hoped to have this accomplished in the next month or so. The Hot tub does not heat up after 9:45 p.m. and the jets are set so they stop working at 10:00 p.m. This not only saves energy but deters after hours use. Only one tub is running most of the time; the 2<sup>nd</sup> tub is only used during peak time.

Gas is down \$1,015 for the month and \$4,868 year to date (big savings). Security/Fire was over budget as were supplies. Front entry locks were purchased. More than were actually needed were bought in order to have some on hand for emergencies. If owners need a new lock they can purchase one of the ones in stock. The cost is approximately \$300 for the lock itself. Elevator expense is down but the annual inspection has not yet been done.

Phil noted that some of last year's special assessment monies were received this year which skewed budget figures. The insurance claim expense/reimbursement also contributed to the bottom line numbers being off but the HOA is substantially under budget at this time.

A question was asked on how so much was saved on gas. It was explained that last year the cost was \$7.50 per unit of gas and it is now locked in at \$5.20 per unit. In addition, usage has been cut back for more savings.

The balance in the checking account was \$21,536.88 and the money market account balance was \$31,983.70.

- B. 2010 Operational Budget. Phil noted that the budget was prepared based on 8 months of actual figures with 4 months estimated. The 2010 budget was compared to last year's and any differences noted. Income was based on the current dues structure (no increase) and is projected at \$158,904.

On the expense side, utilities were budgeted on the previous year's actuals plus 10%. Management fees include a 3% increase in September (per the terms of the management agreement). Cable TV is budgeted with a 6% increase in March. Insurance is based on the current premium with a 7% increase. Insurance rates are still being negotiated. Phil is confident that any increase will be no more than 7% but with the claims paid out for the storms in Denver, this is still a question mark. Hopefully, the premium will remain close to the same. Repair and Maintenance is budgeted based on what was budgeted last year. The full amount was not spent but the budgeted amount will remain the same. Trash is budgeted with a 10% increase. Gas prices are locked in through 2010 and the rates for 2011 are being worked on. These are too high at the present time to lock in. Heavy equipment snow removal and roof snow removal amounts are based on the Board's decision. Heavy equipment has not been needed but it's good to have something budgeted in case of an excessively heavy snow year. Total expenses are projected at \$149,126. The cash flow will be \$9,778 and with \$9,000 earmarked for reserves, the annual net will be \$778. Any excess funds may be put into reserves or used for projects not already budgeted for in the MCR.

Eileen Lerman stated that the budget has outstanding Ocoee items calculated in. She also feels that a settlement with Ocoee should not waive owner's rights. It was explained that "settlement" is probably not the right word to use. Each line item on the punch list is being dealt with separately – there is no "general settlement", no law suit, and no rights have been waived either for owners or the HOA for future claims.

Eileen also questioned the "executive session" held by the Board. The Board had only a couple of days to respond to Ed Chang and there was no time to call a regular Board meeting with notification to owners. The executive session dealt with the same on-going issues. There was nothing new discussed.

Owners who have personal punch list items are responsible for pursuing these on their own. One owner noted that she inherited a punch list of items from the previous owner. Any items reported to CFC within the 1<sup>st</sup> 12 months are valid. It has been extremely difficult to get CFC to respond.

- C. The MCR was reviewed. Items completed in 2009 included gutters and heat tape, staining of deck rails, installation of the split rail fence, hot tub cover, and bike storage hooks. There were several comments on the fence. Eileen felt that it could be considered a "hazardous nuisance". Children play in the area and there is no way for them to retrieve dropped items (balls, Frisbees, etc.) without going down a slippery, steep slope. Steps going down the slope would help. The Water Board may not allow this since they are very particular about access points to their property. It was pointed out that without the fence, the rocks pose just as big a threat. The rocks are there for drainage. It was suggested that planks could be put over this area to make it safer to walk on. The fence has also obstructed views. The Board voted on the fence to prevent use of the property as a short cut to the bike path, etc. George stated that the fence is taller than the originally planned 4' and extends much farther than expected. If the height is lowered people will simply climb over it. It was noted that if people want to climb over they'll do so whether the fence is 3', 4', or 5' high. It is primarily designed as a deterrent and to make people realize they are not supposed to be using the property as a short cut. The Board will review options on lowering the height and length of the fence.

The locks on the gates in the hot tub fence have never worked properly and will be eliminated. You will be able to exit the area but you will not be able to gain access this way in the future. CFC has not been able to get the locks to work and it was agreed to allow egress only. After discussion, it was decided to look at this again and see what it would take to get the locks restored to the original plan – ingress and egress.

Eileen noted that she received a violation letter when a guest in her unit supposedly jumped the fence to gain access to the hot tub. She stated that there is nothing in the rules about jumping the fence. The fence is clearly posted with "do not climb" notices. In addition, it would be a valid assumption that anyone jumping the fence does not belong in the area. Eileen also asked if owners can use the hot tub patio area after hours. It was explained that this is not permitted due to noise issues.

Hours of hot tub operation were discussed along with quiet hours. Currently the hot tub hours are 10 to 10 and quiet hours are 8 to 8. There was a lengthy discussion on the quiet hours being too restrictive and whether or not the hot tub patio could be used after hot tub hours. There are some owners who would like to be able to sit on the patio and have coffee, read, watch the sunrise, etc. There have been many complaints about noise in the hot tubs after hours. Renters and guests are more of a problem than owners. Owners were asked to call the police for excessive noise. The police do not necessarily like to respond to noise complaints if charges are not going to be filed. George has assured the police that charges will be filed if the complaints are valid. To date the police have responded 4 times. No charges have been filed since all violators vacated the premises when asked by the police to do so.

There was a lot of discussion on quiet hours. One owner stated she has been asked to stop vacuuming at 8:30 a.m. because it was too noisy. While any noise that is disturbing to other occupants can be construed as a rules violation, common sense needs to be used.

A motion was made, seconded and passed to keep hot tub and patio hours at 10 to 10. Quiet hours will be revised to 10 p.m. to 8:00 a.m.

More discussion ensued on noise. Sound transmission is a problem with many complexes. Phil noted that he had stayed in several places while in the process of moving and found all of them to be noisy. Noise levels at TLC met all code requirements when tested during construction. Whether or not anything can be done to alleviate sound transmission is still being reviewed.

George got the discussion moved back to the MCR and asked all owners to take a look at the document and note if they see any items missing or budgeted incorrectly. (A 10 minute break was called to allow owners to look at the MCR.) When the meeting reconvened, Phil noted that there would be a big deficit in MCR funding in 2012 when painting is scheduled. Bruce noted that dues are in line with other complexes and he would rather see an assessment than a dues increase. An assessment could be done in the year of painting or it could be done over a 2 year period on the installment plan. It was noted that dues increases are fairer than assessments since all owners pay. With an assessment, someone who buys a unit just after painting is done and sells before it's done again contributes nothing to painting. Any pending assessments must be disclosed to buyers and this could be negotiated in the selling cost. Phil also noted that buyers want to see a strong reserve and it appears that lenders are taking a hard look at reserve funding. The Board explained that nothing needs to be done immediately but they are looking ahead. They asked for a show of hands on dues increase versus assessment. All were in favor of an assessment over 2 years (\$400-\$500 per year per unit) as opposed to a dues increase. When the Board begins looking at the 2011-2012 budget they will see what's needed. It is conceivable that enough money will be saved from the budget to pay for all or most of the painting but this is unknown at this time. Owners were cautioned that although no dues increase is planned now, if expenses increase, dues will also have to increase in order to cover the normal day-to-day operating expenses.

Phil reminded owners that when an assessment is done, it's over when it's paid. With a dues increase, reserves are funded continually and built up. Owners agreed but do not want to see a dues increase at this time. This led to a discussion on what is included in dues payments (hot water, fireplace gas, hot tubs, internet/cable, garage, elevator).

It was asked if painting could be deferred. The Board noted that a 5 year cycle is normal in Summit County but this will be looked at. If it can be deferred, it will be but it's very important to preserve the buildings and maintain them properly. The Board noted that items are deferred when necessary or not needed. Parking lot striping was deferred as was seal coating. Seal coating will not be done until Ocoee repairs the parking lot. Sealing is needed every couple of years since it does not last very long. An overlay will last much longer but this is extremely expensive.

7. **Old Business.**

- A. The Ocoee/CFC issues were discussed earlier in the meeting. It was reiterated that all items will be addressed and there may be a cash settlement as well. No rights have or will be waived with regards to the HOA or individual owners. Ocoee/CFC will not be released from all liability.
- B. Bird spikes will be discussed separately by the Board. Whether or not owners are responsible for installation or if the HOA should bear the expense is to be decided. One owner has put up the spikes (\$180) at his own expense. If you want to install bird spikes, you may do so but it must be coordinated with Mountain Managers. It appears that there are about 8 units with open rafters that will be affected. Unit 406 would like Mountain Managers to install spikes.
- C. Air fresheners will be removed. They were originally put in when the garbage can was inside and discarded food was causing an odor problem. The garbage can has been relocated outside.
- D. Unit 301 has had trouble with the lock on the unit's ski locker. It was noted that previous minutes were in error when it was stated that the lock has never worked. The lock worked originally but has been erratic for quite some time. If a new lock was put on this locker, it still does not work properly (Mountain Managers to check). The owner stated that Eric told her it was covered under warranty and would be fixed. Locks are an owner responsibility. If this was an issue from the beginning it should have been on the owner's personal punch list for CFC to take care of. George noted that he is replacing a lock and he would be glad to give #301 his old lock if it will work on the locker.
- E. Sprinkler leaks in units are being addressed. A list of leaks is being compiled so all can be fixed at once. 303 noted that the leak in their unit was fixed once but is leaking again. All owners are asked to notify Mountain Managers if they have a sprinkler system leak in their unit.

8. **New Business.**

- A. Rules and Regulations were discussed at length. Eileen Lerman stated that there were rules in effect when units were originally purchased. She stated that they have been changed several times without owner approval. She quoted from the rules stating owners are to be provided with any proposed changes so that they can review and comment at least 30 days prior to adoption. A copy of all changes has been provided to owners. It was pointed out that both the Declaration and the Bylaws give the Board the authority to "establish, make and amend from time to time and enforce compliance with such reasonable rules and regulations as may be necessary for the operation, use and occupancy of the Project..." It was also pointed out that the original rules were prepared by the developer and were not effective until adopted by the Board. The Rules and Regulations were officially adopted in June of 2008. At that time, Timberline Cove was still managed by Wildernest. Since that date, the Rules have been revised twice, once in December

of 2008 and again in January of 2009. A vote of the owners is not needed to revise the Rules and Regulations. In an effort to be fair and give all owners a voice, any revisions are provided to the owners at least 30 days prior to a new rule going into effect.

The most recent change to the Rules and Regulations (dogs required to be leashed) was done to bring the Rules into compliance with the Declaration.

At this time, the meeting was recessed in order to give everyone the opportunity to get something to eat.

When the meeting reconvened, more discussion took place on the Rules and Regulations. It was reiterated that the Board has the authority to make changes to the Rules and Regulations. The Rules and Regulations cannot conflict with the governing documents. In order to amend the Declaration, owner approval would be required. In accordance with Section 10.2 of the Declaration, "this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners holding not less than sixty percent (60%) of the votes possible to be cast under this Declaration."

Questions were raised on the section of the Rules that deals with charges assessed by Mountain Managers if they are called out for a problem caused by an owner/guest/tenant. This is not a charge levied by the HOA. If Mountain Managers is called out and a charge is incurred, the owner is ultimately liable. For example, there is a charge if Mountain Managers is called for an after hours lock out. It is up to the owner to collect from the offending party. Eileen stated that Wildernest did not charge for lock outs. She also stated that Mountain Managers is being paid more than Wildernest. This is incorrect. The management fee is higher but includes many items that were charged separately by Wildernest. The end result is a significant savings for the HOA.

Eileen was asked to put in writing any specific changes that she would like made to the Rules and Regulations and submit it to the Board. Eileen also requested a copy of the management agreement and was told that it is available on the website.

Eileen stated that she is disputing some charges that have been assessed as a result of the water being left on in her unit. She said that the Board is not following the Decs and Bylaws in dealing with her complaint. There are rules for "Alternative Dispute Resolution" including mediation. The Board replied that they have not yet reached that stage. The next step is "negotiation" and a meeting will be set up with Eileen and the Board. This must take place prior to going to mediation, etc. Notice will be sent to Eileen regarding the meeting.

B. Jack had a list of items he wanted to address.

(1) When deck rails were painted 5 doors to his unit were unlocked and left unlocked. The kitchen door to the deck was left open for 3 weeks. That's why he does not want anyone going into his unit. In addition, the painting was sloppy. There are drips all over the deck and runs all over the railings. Phil stated that the same person will not be doing the painting next time.



It was noted that Jack's unit does not receive security checks. This is an owner decision and the unit is listed with Mountain Managers as "do not enter without owner permission".

- (2) Delinquent units are only charged \$20 after 59 days of being late – can this be changed? The Board will look into this issue.
  - (3) Windows were not cleaned this year. He felt that the money used to buy a luggage cart could have been better spent on window cleaning.
  - (4) Hot tubs are not in compliance per previous minutes. It was explained that this is in accordance with a new law.
  - (5) Jack pays Comcast \$34.95 per month for HDTV (upgrade) and wanted to know if this could be done through the HOA's contract with Comcast. Robert has spoken with Comcast and they have no interest in providing any upgrades with the existing contract. The current contract would have to be negated and a new contract put into effect with any upgrades. It does not make sense to pay for the HDTV/DVR system plus \$20 more per unit for basic cable under a new contract. This is something that can be looked at again after the Comcast agreement expires.
  - (6) Jack has been putting traps and D-Con on his deck thinking he had mice. He's found out it's a bat problem (he's killed 2 and they are back again). It was explained that originally it was believed that bats were just sleeping in crevices and screening could correct the problem. This has proved to be false since there are no openings/crevices at Jack's unit. Danielle had heard of dealing with bats by building a bat house. The Board is willing to look at any and all information. Phil noted that the bats will probably leave on their own in a few weeks since they are migratory. There have been problems at other complexes as well. Bats only need an extremely small opening to get in.
  - (7) The most recent change to the rules requires dogs to be leashed when outside the unit; being under voice command is not acceptable. Jack asked if this was correct (yes) – he is in favor of the new rule. As noted before, any change to this rule will require an amendment to the Declaration.
  - (8) Jack complimented the Board. He stated they do a great job and spend many hours working for the HOA. Owners applauded this comment.
- C. A question was asked about the bike path. Does the HOA have any responsibility for maintenance? No. Ed Chang had to replace the path when he tore it up but the County has been maintaining. It was re-paved a couple of years ago.
- D. The Board was asked to take into consideration filling in the two existing non-compliant hot tubs and installing one new, nicer, larger tub. The Board is looking into this since bringing the current hot tubs into compliance will be very expensive. Once all the facts are in options will be presented to the owners. It was also noted that no one is currently in compliance. There is a long back order for parts and it could take a year or more to bring the tubs into compliance.

E. Carbon monoxide detectors are required in rental units. Under new law, they must be installed within 15' of all designated sleeping areas. Battery back up is recommended versus the strictly plug in type so detectors will continue to function if there is a power outage.

9. **Election of Officers.** There were two positions open on the Board for 3 year terms. The terms for George Hart and Duane Abbott were expiring – both agreed to run for re-election. Nominations were opened – there were none and nominations were closed. Since the Board positions were not being contested a secret ballot was not needed. A motion was made, seconded, and passed unanimously to re-elect George and Duane to the Board. The Board will decide on officer positions at a later time. The current Board members are:

George Hart	Term expires 2012
Duane Abbott	Term expires 2012
Robert Levin	Term expires 2011
Jerry Frazee	Term expires 2010 (filling remainder of Julie Neils' term)
Mark Hull	Term expires 2010

10. **The Next Annual Meeting Date** will be the first Saturday in October, 10/2/10. It was asked if the meeting location could be changed to. The Board will look at alternatives and see if this can be done. Mountain Managers' office was used primarily because it's free and other venues charge.

The next Board meeting will be held early in December (budget approval). Date to be determined.

7. **Adjournment.** There being no further business, the meeting was adjourned at 2:10 p.m.

Signed:



10/26/09

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George Hart, President

Date

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Judy Freese/Susan Witkowski, Recording Secretaries

Date