

# TIDELANDS ESTATES

## Tidelands on the Intracoastal, Palm Coast, Florida

**Tidelands Estates - Newsletter**      *March 2010*



## **Presidents Notes**

### **Bill Clinton**

I was saddened at the passing of Bill Clinton on March 26<sup>th</sup>. Bill and his wife Harriet were original home owners within the Tidelands Estates community dating back to the early days. Bill was not just our neighbor, but was very instrumental in the original turnover of the association from Centex Destination Properties to our Home Owners Association. He served as President of the HOA during the early years. Knowing Bill, I am sure where he is now that he has already positioned himself as head of the local debating group.

### **Annual Election of Officers**

The Board Meeting held March 25, 2010 was primarily to elect two officers to the Board of Directors for the HOA. Walt Schaaf was re-elected as Treasurer and Head of Budget and Finance for a new two year term. I would like to welcome Dennis Cusack to the Board of Directors as Secretary, many of you know Dennis from the days when he worked the sales office for the Village at Palm Coast during the early days and sold many of the properties in our development. He has been in the real estate market in Palm Coast for many years.

I want to thank Ann Hollod for her outstanding work as our Board of Directors Secretary over the past few years. Ann great job! Thank you so much.

### **Finance**

Walt Schaaf gave the homeowners an update of our finances. Bottom line - even with all the foreclosures and property turned back to the banks - we are strong financially. We have had a few home and property sales in the community that were bank held. Since we had liens against all of these properties, we were able to make up some of the shortfall from past years. At year-end, we moved money to the reserve account bringing our reserve total to \$36,000. This was recommended by the management company so we would not have to pay tax on some profit we made last year. The Lease Agreement money is in a separate CD account earning 1.7% interest.

Even though our finances are strong we could have a potential problem with Phase-II. They just received control of the Home Owners Association from Centex a few weeks ago. This is something we need to watch very closely because they have over 50 condos and townhomes in foreclosure and all of the builder subsidies have gone away which makes it much harder for some others to survive. We plan to work with Phase-II as much as they will permit to help assure that their lack of funds will not have an adverse effect on our side.

In addition, I was advised by the president of our management company that our financial position is one of the

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strongest he has seen in the area. We are in this position because of the Lease Agreement Fees for dock rights. Bob Orr and Walt Schaaaf have done a great job by gaining major reductions in our Cost Share Expenses and the tough contract negotiations Jay Martindell held with Austin Outdoor to maintain our area for the next year.

The money received for Lease Agreements was put in a separate CD account generating interest while we get the permitting modifications completed. A portion of this money has been used to cover legal fees and the consulting firm assisting us with permit modifications.

An issue was brought up regarding the Sundance Cruise after the last Board Meeting and during the Christmas Holiday. This money was previously budgeted for the Social Committee to use and this was the one Social Event for 2009. As it turned out, everyone was invited and all of our member had a wonderful time together and enjoyed the cruise.

### Security

I think everyone is aware that we have drive around security in Phase-I that starts around 11:00pm and continues until 5:00am. This is an armed security service and he is driving a marked patrol car around our neighborhood all night. From where I sit and work late at night, I see him on his patrol and he passes by every 20-minutes or so. In my opinion, this is a great alternative for us. In essence, we have real security instead of a person sitting – or sleeping – in the gate shack all night. The cost for this service is the same amount budgeted for our percentage of the gate security. As you know under last year's budget, we paid a percentage of the cost share to have gated full time security. Phase-II does not have the money to continue paying for gated security. So I think the solution that Board Member Walt Schaaaf and our management company implemented is a good alternative to secure Phase-I. Several homeowners during the Board Meeting praised the job our

new security officer is doing. In the future, Phase-II may be able to help pay for some of the costs to secure the condo area as well. Our security guard does not patrol the condo area at this time. He does patrol the gate and will follow any car coming into our area if he does not recognize it as one of our homeowners. If you are followed to your house some night, don't be alarmed, he is just doing his job.

### Grounds and Maintenance

Jay Martindell has been working with Austin Outdoor designing an online calendar that can be updated by our account manager as changes are made. If you go to the web site, there is a Google Daily Calendar showing the schedule for all activity in our neighborhood. There is also a newsletter from Austin showing the best flowers to plant at this time of year to keep our neighborhood looking nice. Many plants were cut back because of the freeze this winter and they say this will come back as soon as we get some warm sunshine on these plants.

At this time, our water system is functioning properly and no problems are outstanding. I want to thank Jay for keeping on top of these issues.

### Architectural Review Committee

The ARC met on March 23<sup>rd</sup> to cover several items. A couple of small changes were covered and the committee decided to set the application for modification fees back to where they were before. Larger jobs are still \$500, but the smaller jobs will only be \$100. They felt that charging \$500 for small modifications, such as adding small screened rooms was high for what it required.

The issue of roofs on docks located along the Cimmaron Waterway was discussed at the Board Meeting.

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Several homeowners had a concern that this Board was not being transparent in voting this issue and not making it public to the membership. To clarify this and to ensure everyone knew what this was all about, I gave the homeowners an overview of where this started and why it came down to a vote by the Board being done by email. The following is the condensed view:

- As the legal action to recover the common area property was going on, I had several homeowners along the Cimmaron Waterway express concerns about docks with roofs along this canal. When we successfully completed the legal action against Centex and the property was returned to the Phase-I HOA, we assigned the project of defining the details for dock requirements to the ARC. They worked together with the Common Area Use Committee formed from homeowners around the Phase-I community to define how the area would be used.
- In October of last year, I sent a letter to the ARC requesting that they do a survey of the eight property owners living along the Cimmaron Waterway to find out what they wanted related to roofs, placement of docks etc. Since this was somewhat political, the ARC passed it back to me and said you send an email as President and get a vote of what people want.
- I sent an email to all eight property owners along the Cimmaron Waterway explaining the issue and that I wanted a vote of “YES we want roofs” or “NO we do not want roofs” allowed on any docks. I received one letter back, but it did not have a yes or no indicated and four emails voting NO to roofs. The following day, I sent a second email to everyone again asking for a “YES or NO” vote and I included my phone number to contact me if there were questions. I received one email saying YES to roofs. I did not receive any response from the remaining three homeowners. This

made the result four votes for NO roofs, one vote for roofs and three non-votes. Any non-vote was tossed from the initial pool of votes.

- The ARC Plan was presented at the Board Meeting in December, 2009 and contained language stating that roofs were optional on the new dock construction. The plan was approved except for the issue of roofs on the Cimmaron Waterway. Since we were short one Board Member at that meeting, I elected to table the vote on this issue until a later date when we had time to have the entire board vote. In January, I sent a motion to the full Board and requested an email vote on the roof issue. The board vote was NO roofs along the Cimmaron Waterway only.
- This is where the issue of board transparency came into question. To resolve this issue and make sure everything was clear to everyone, all of this information was discussed at the March Board Meeting. One board member, Jay Martindell, felt this should be put to a vote of the entire membership; I disagree with his analogy because this is only an issue for the people living on the Cimmaron Waterway and has no impact on any other HOA homeowner. A motion was made to modify the language in the ARC proposal to say NO roofs along the Cimmaron Waterway. The motion was accepted and approved by the Board on a four to one vote in favor of changing the language to say NO roofs on docks along the Cimmaron Waterway.

I apologize for taking this much space to cover an issue. However, I take any accusation implying that this Board is not being transparent and not keeping the membership informed on what we are doing very seriously. I have tried since being in this position to keep everyone informed through postings on the web site, in

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newsletters to the membership, and emails to the entire membership so everyone is fully informed on what we are doing and how we are managing your community. Every committee meeting is posted on the web site and all the upcoming scheduled meetings regarding the common area plans, the ARC meeting, and our Board Meetings are open to anyone who wants to attend.

It has been implied that we are doing things that are not legal under some of the Florida 720 rules that govern the operation of an HOA in the state of Florida. Let me assure everyone that we are abiding by the 720 rules. We have consulted legal counsel specializing in Florida 720 Rules and they assure us we are acting within the guidelines. The issue that seems to be the one most troublesome is homeowners having a problem with ownership. Existing docks in the Phase-I area are all owned by the individual homeowners. The dock Lease Agreements within the new common area is located on property owned by the HOA not the individual homeowners. Because this property is owned by the HOA, the Florida 720 Rules allow the HOA to set the use rules for this property. If this property were owned by the individual home owners like it is in other parts of our community then a different set of Florida 720 Rules would apply.

### Common Area Use Committee

Bob Orr gave an overview of the common area plan and a status update. Some within our homeowner group received letters notifying them that the dock permits had been rejected by the St John Water Management District. This is not true, the consulting firm and Bob Orr were notified by a phone call from the St. John's that our permits could not be approved as presented with all the docks included, it would require an environmental study, manatee mandate and additional studies. The Consulting Firm has made the modifications, pulled dock approval out, and returned them to the St. John's so the permit modification was never stopped. Once we have approval for the easement,

pathway, and the size of the buffer area, each homeowner can then get their own approval for a dock. Bob tried to get the docks approved along with everything else to save everyone some time, but it did not work. Bottom line, we have not been rejected, just delayed somewhat. These things happen when you are trying to get something approved; it takes time dealing with Public Utilities, City Planners, and a Government Agency.

There was discussion regarding the location and size of the fishing pier and gazebo and that is in line right behind the acceptance of our request to modify the original use permit with the St. John's. If there are additional changes required to pass the permit modifications, we will do what is required to get this approved.

There was a concern from a homeowner regarding the original Lease Agreement signed by everyone who wanted docks from the HOA. One of our homeowners found there was a different version of the Lease Agreement at the city and was concerned that this was not presented to the homeowners. The Lease Agreement was modified by the City legal department because they found a couple of things we missed in the original agreement such as underground right away for electrical and several other small things that actually makes it better for our homeowners going forward. All homeowners that signed the Lease Agreement with the HOA will be required to sign the new Lease Agreement when you go to the city for dock approval. This will all be made clear when our request to modify the permits is complete and a requirements package is presented to homeowners to apply for docks.

**READ THIS: You cannot go to the City for dock permits until the entire package is complete. This includes overall permitting by the City of Palm Coast, St. Johns Water Management District, and the Army Corps of Engineers. You will be notified when this is all complete.**

### Cost Share

The next Cost Share Meeting is coming up soon. Bob Orr and Walt Schaaf plan to discuss the back gate being locked down. We need to have emergency egress from that gate so we are not restricted to only one gate.

We have initiated legal action against Phase-II and Centex/Pulte Homes regarding the current Cost Share Agreement. As it stands today, we have no real vote on anything within the cost share. Phase-II can set the rules and we have to live with them. The financial position that Phase-II is in really dictates that we need to have more input and control. We are asking for equal voting rights and arbitration if we cannot agree.

Speaking for Your Board



John Loudermilk  
HOA President

## **Projects and Goals Currently Underway or Planned**

**Mission: Tidelands Estates will be the community that the residents envisioned when they moved to the area, and be a model-gated community.**

**Board Goals:**

- Establish an efficient, effective and fully funded organization in accordance with applicable regional, state and federal laws and good business practices.
- Ensure that the members of the HOA have all the information regarding activities in work, future planning, and finances required to take the community forward.
- Ensure that Tidelands Estates properties (residential and common) meet the highest standards possible using our contractors to their maximum benefit.
- Ensure that the Tidelands Estates Compliances are enforced when necessary.



**Pending Items in Work: (Partial List of Major Tasks)**

- Work with the Consulting Firm to get the modifications approved by St Johns Water Management.
- Work with the City of Palm Coast for permit approval after St John's.
- Start Construction on the pathway and gazebo.
- Start construction on the fishing pier.
- Work on security now that Centex and May Management have cancelled the gate security. (Completed)
- Continue the legal action to get better representation on the Cost Share Board.
- Update the ARC Guidelines Document
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### **Tidelands Estates Board & Committees**

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