



## **PRESIDENT'S ANNUAL REPORT** **NOVEMBER 2022**

Dear Owner:

At our last Annual Meeting, the Annual Budget for 2022 was passed, and the Board of Directors were elected/re-elected. Thank you for your support and confidence in our Board of Directors.

Our slate of Directors is comprised of nine unpaid volunteer Ponds owners. Our Board of Directors play a critical role in managing our resort. Serving on the Board takes time and effort that few are willing or able to expend. Serving as a Director on our Board is a serious responsibility. Our resort is run solely by the Association and managed by Capital Vacations.

Our Board is made up of a team that establishes the standards by which our resort will be measured. I am proud to say our Board of Directors has expertise and dedication and gives of their time to fulfill their responsibility to the Association.

With all the dedication and the expertise of the individual Board Members, we have never experienced the type of challenges that we were confronted due to the COVID-19 Pandemic. Our Board had to make difficult important decisions that affected all owner's interests at the Resort. Our decisions are always made in the best interest of the owners, and in accordance with our Fiduciary responsibilities.

We have encountered closings and mandated pandemic protocols that have truly affected our owners as well as the Ponds BOD and management staff over the last three years.

The BOD is very much in concert with many of your findings as you visit the Ponds. We have literally been in "survival" mode over the last several years. Costs are skyrocketing and getting good help is nearly impossible.

We lost many employees, especially our Assistant General Manager and General Manager, both who were employed by the Ponds for many, many years.

We were very "blessed" in "recently" replacing our GM with a very competent and experienced person. We have also filled positions at housekeeping and front desk with very good people. In time, I believe our newly hired GM's capabilities will help us to "stem the tide" and allow many of the issues many of you have addressed over the past three years to be corrected.

That said, we are trying our best to maximize the monies we have budgeted to address the issues many of you have cited. If we were to address all our issues it would take a major "special assessment" to repair and/or upgrade all the problems we know about today. Significant progress has been made with landscaping already this year, and you can expect several major improvements on your visit to the Ponds next year.

For major expenses, we have replaced all kitchens, painted the exterior of all buildings with Rhino Shield, replaced all roofs over the past 5 years, and repaired significant damage to buildings from rain and wind

dry rot to the tune of hundreds of thousands of dollars. These building are nearly 40 years old and were built with minimal codes being met, so we are paying for that today.

Only time will tell if we are to be successful in achieving our goal of correcting all of the issues you have addressed, as well as many of the underlying concerns that are not readily apparent such as the boiler estimating to be \$80K, other dry rot issues in buildings, etc, etc, etc.

We, the BOD, are doing our absolute best to ensure continued corrective action for all of these issues, as well as resort viability with unknown future expense increase such as electricity, taxes, etc. Yes, we have explored "solar" and other options, to address this one major expense that is one of the largest areas in our budget.

Closing the resort during most of 2020 helped the Association by saving tens of thousands of dollars in operating expenses and allowing us the monies and the opportunity to make many major repairs and renovations without disturbing owners and guests. During 2020, and thus far in 2021, we have spent over \$250,000 on much needed projects that we have contracted for without any special assessment to our owners.

### **PROPOSED ANNUAL 2023 BUDGET**

Our 2023 Budget is made up of revenue from Maintenance Fees and Rentals. This is offset by anticipated operating expenses and money put aside into reserves for capital expenditures. We know that many of our members are experiencing health issues in addition to financial burdens relating to the Pandemic even though it was several years ago.

**We offer a 12-month payment plan to anyone who is having a financial hardship in paying their entire Annual Maintenance Fee when billed to you in January (right after the holidays).**

**Our Automatic Direct Draft Plan enables you to spread your payments for your Annual Maintenance Fee up to 12 monthly payments during the calendar year, WITHOUT ANY INTEREST OR MONTHLY FEES.**

**While enrolled in the payment plan an owner is considered current and a member in good standing and is able to use or trade their week before the entire Maintenance Fee is paid.**

**Many of our owners have taken advantage of this payment plan. Please call our Front Desk Manager at 413-637-1469 for the form to enroll in this plan.**

### **OWNERS, WE NEED YOUR HELP ON UTILITY EXPENSES**

Electric rates and consumption go up every year. Each year we have had increases in expenses for electricity. We use our electricity for heat, hot water, air conditioning, stoves, and all our appliances, and of course inside and outside lighting. We have installed individual outside solar lighting fixtures for some of the walkway steps into the units.

We are looking into better timers for the lights on the entry to the units. The timers are supposed to go on and shut off at specific times, but they do not.

In spite of posted signs in the units, we cannot depend on renters and guests to be mindful of turning off lights when not in use, or when leaving the unit. Some guest (and I hope not owners) do not close their windows when using air conditioning or heat. We can only count on our owners when you are in residence to make a conscious effort to help reduce our electric cost by closing windows when using the air conditioner or heat and turning off the lights when not in use.

Unfortunately, the contract we approved to install solar panels on our “Knolls” acreage has fallen through due power “distribution” issues with the local towns.

### **CREDIT CARD POLICY**

To help us increase our rental revenue, especially by capturing the market of unplanned, spur of the moment vacationers, we accept credit cards for the payment of renting a unit. We also accept credit cards for the payment of your Maintenance Fee with a 3.5% convenience fee. The fee will cover bank charges that the Association must pay for processing the cards used for paying your Maintenance Fee.

### **OWNERS WHO RENT THEIR UNIT PLEASE NOTE**

Booking trends shows booking rentals on-line is the primary way the public makes reservations. This has enabled the public to book a rental reservation on-line with “On-line Travel Booking sites” like Expedia and Booking.com. The public is able to make a reservation for a unit 24/7 and to pay for the reservation on-line. Although we have incurred an added cost for the full exposure to our rental inventory, through on-line booking, we are booking many more rentals.

We ask that **you call** The Ponds **about two weeks prior** to the check-in date to see if your unit is rented. There is **no guarantee** a renter will not cancel at the last minute, but they will lose their deposit. The Ponds **does not** notify you of the potential rental or last-minute cancellations. We **will attempt** to contact you two weeks prior to the check-in date, if the unit **has not** been rented. This will give you an option to leave it in the rental pool, use the week, or give it to a family member or friend.

**Any request to withdraw your week from the rental pool MUST be in writing (mail, fax, or email) AND you must request a confirmation from The Ponds that your week has been withdrawn before any rental was made.**

Once again, I recommend to all owners who wish to rent their timeshare week, especially summer owners, **PLEASE MAIL IN YOUR RENTAL PERMISSION FORM AS EARLY AS POSSIBLE!** It is difficult to rent a unit turned in just a short time before the week comes up.

The influx of calls at Foxhollow in July and August is high. Many would-be renters had to be placed on waiting lists for long periods of time. When rental permission forms were finally mailed in, many of those would-be renters had already made alternate plans. A study by the Berkshire Visitors Bureau showed that most visitors to the Berkshires make their reservation 6 months in advance. **It may take up to 45 days after the end of the rental month before you receive the rental proceeds out of escrow (especially during the summer months)**

### **SPECIAL EXCHANGES WITHOUT GIVING UP YOUR WEEK**

Take advantage of this great opportunity for an owner to book an exchange anywhere in the world **without giving up your week**. Our program enables an owner to **pay only the maintenance fee** on a

delinquent week and use it to exchange to any of the many resorts listed in the Interval International exchange directory book. If you cannot get the exchange you are looking for, we will refund the maintenance fee. We currently have delinquent “red weeks” in our inventory. Call The Ponds to see what units and specific weeks are available for this exchange.

### **EXCHANGE COMPANIES**

The Ponds is associated with a number of exchange companies. The three major exchanges companies are, RCI (Resort Condominiums International), Interval International and Dial an Exchange. Check our website under “Owners” link for special enrollment prices for Ponds owners.

Those owners who have never exchanged a week may not be aware that you do not have to exchange to a resort for the same week you are giving up. For example, you may exchange week 6 (a ski week in February) for any week throughout the year at a different resort, if it is “banked” by the owner of that other resort and it is in the Exchange Company’s inventory. Of course, the week you are giving up has a “value” based on certain criteria like “demand” and “season”. A spring week or a week in November won’t have the same value of a Tanglewood week.

### **USE OF FACILITIES DURING HOLIDAY & TANGLEWOOD WEEKS**

**The “right to use” when not in residence has always been limited to the amount of people that the unit you own allows you to bring when in occupancy.** If you own a Westinghouse unit, it is four and a Vanderbilt unit is six. Some owners (not in residence) have recently brought many more guests for children’s birthday parties. Some have brought additional couples and all their children to spend the day at the pool. **We have overlooked an occasional extra couple of people over the limited amount, but we cannot allow excessive abuse of this privilege.** All owners not in residence must sign in at the front desk and verify the week and unit that you own. Those owners who do not own Tanglewood weeks may use the pool and facilities during the week, and on weekends, if there is space available.

**DURING PRIME TIME AND HOLIDAY WEEKS, THOSE OWNERS “IN RESIDENCE” HAVE PRIORITY IN THE USE OF THE POOL AND FACILITIES, ESPECIALLY WEEKS 26 THROUGH 34. Non-residence guests will be asked to leave if it gets overcrowded.**

We will also be enforcing the posted rules for owners in residence, owners not in residence, renters, and exchange guests regarding the age of children unaccompanied by an adult using both the pools, and especially the hot tub.

### **FOUR (4) YEAR CALENDAR FOR PONDS AT FOXHOLLOW**

**THIS SECTION IS VERY IMPORTANT PLEASE TAKE THE TIME TO READ IT. On the website you will find an interval calendar for 2023-2025.** Every year there are owners who do not check our calendar and arrive on the wrong week. The calendar normally moves back one day every year except it moves back two days due to a leap year. It changes when there are 53 weeks instead of 52 weeks in the year. To add more confusion our documents specify that week number one is always the **“FIRST FRIDAY AFTER JANUARY FIRST”**. **If January 1<sup>st</sup> comes out on Friday, week number one starts on January 8<sup>th</sup> the first Friday after the 1st. PLEASE BE SURE TO CHECK THE DATES OF YOUR VACATION WEEK ON THIS YEAR’S CALENDAR.** If you have any questions about the correct week, please call the front office at The Ponds (413-637-1469).

## **NON-SMOKING POLICY**

As in many resorts, and in compliance with a Massachusetts Ordinance, The Ponds at Foxhollow is a **“NO SMOKING RESORT FACILITY.”** We have posted “no smoking” signs in all the units, as well as in the clubhouse. We expect that those who do smoke will abide by this policy, and smoke outside of the unit.

## **ROOM OCCUPANCY AND PARKING**

Occupancy for a Westinghouse (1 bedroom unit) is no more than four (4) persons. Occupancy for a Vanderbilt (2 bedroom unit) is no more than six (6) persons. If you plan to have more than the limited amount of people, you should consider renting another unit **at the owner’s discounted rate** when available. We provide parking for ONE car for each unit. It is only fair that one spot be available close to the front of each unit for that resident.

## **“LOCKED OUT OF UNIT” FEE**

We charge a \$50 fee, if someone has to come back to the resort after the office closes to unlock a unit. If you are unable to get to the resort before closing, all you have to do is give us a call (413-637-1469), and arrangements will be made to leave a key card for you and you can register the next morning. This fee also applies to anyone already checked in who loses his or her key card, and have to come back after the office is closed. An emergency phone number is posted on our front door, if you forget to call for a late arrival.

## **GETTING OUT OF YOUR TIMESHARE OWNERSHIP**

**URGENT: OWNER BE AWARE** of unscrupulous companies. Many folks are receiving calls from “fraud” companies pretending to be one of our BOD members offering a seminar for specials. In most cases, these fake spam calls, emails, and letters are from companies who do not have a real estate license. They make offers to sell or take possession of your week for a fee (which in many cases is several thousands of dollars paid up front).

Many timeshare owners are getting solicitations to get rid of their timeshare obligations and annual maintenance fees. The basis of the “fraud” is that the owners may think that the lease is being transferred to an entity or person(s) that will assume the obligation to pay their maintenance fee in the future and release the owner of his or her liability.

The entity or person named in the transfer has **no intention of paying the maintenance fee and our Association will still hold you responsible**. Many of us have been inundated with offers that seem too good to be true, especially if you are having a financial hardship and want to get out of your timeshare ownership.

**Please don’t let this happen to you.** The best advice before signing with this type of solicitation is:

1. Call us at The Ponds and ask **what is accepted by the Association in order to legally transfer your lease to another. WE WILL WORK WITH YOU if you are having a problem in meeting your financial obligations to The Ponds. Don’t be fooled by these “transfer companies”.**

2. We have a direct draft program enabling you to pay your Maintenance Fee over the 12- month calendar year without any interest or fees.
3. Don't even consider the validity of a solicitation that requires money up front and limits the offer for a limited time only (i.e. the offer is only good for 48 hours). Massachusetts has passed a law "House Bill 266" which provides strong consumer protection from fraudulent transfers. This law enables our Association to identify suspected fraudulent companies and reject the suspected fraudulent transfer.

**The following is a copy of "The Ponds' Ownership Transfer Policy"**

The Association has a fiduciary responsibility to ensure it has reviewed a new member's credit worthiness and it has verified the identity of new members. The Association also has the responsibility to ensure that the conveyance document used to transfer an interest in the resort properly and legally describe the interest. The Ponds at Foxhollow Association adopted the Ownership Transfer Policy under its Rules and Regulations:

Rules and Regulations  
The Ponds at Foxhollow Association Ownership Transfer Policy  
(Adopted September 22, 2012)

Notification of Sale (or transfer) of Vacation Ownership, Timeshare Interval, or Timeshare Estate requires all Ponds at Foxhollow Association Maintenance Fee(s) and Assessments must be current and paid in full prior to closing (or transfer). The current Member shall notify the Association in writing not later than (30) days before the voluntary or involuntary sale, transfer of assignment of any Vacation Ownership, Timeshare Interval, or Timeshare Estate.

Any transfer of this type UNLESS transfer of ownership is between the owner and family member (or approval by our Association); the current Member or their authorized escrow agent shall submit a Standardized Vacation Ownership Estoppel request, a Company Resolution from the proposed transferee (if a Corporation, Trust, or Company), a Membership Application from the proposed transferee, and a pro forma of the conveyance document prior to its recordation.

In the absence of such notice and required documentation and prior to the Association's approval of the recordation of the conveyance documents, the Association shall not be required to recognize the transferee for any purpose. Any action taken prior to giving the notice and required documentation by the transferor may not be recognized by the Association.

**Until such time as all requirements have been met, the original owner (or transferor) will continue to be held responsible for all maintenance fees and obligation to the Association.**

**This is very important: please email our VP of Customer Service, Dave Wolf, at "wolf1224@sbcglobal.net" if you have any questions before you sign with one of those suspected fraudulent companies.**

**SUMMARY**

This past year we have started emailing periodic newsletters to keep our owners up-to-date concerning our resort, including current and future projects. These newsletters will only be sent by email.

Please make sure that we have your current email address by calling **413-637-1469** or emailing [pondsres@capitalvacations.com](mailto:pondsres@capitalvacations.com) with your email address.

**WE DO NOT GIVE OR SELL YOUR EMAIL ADDRESS TO ANYONE. IT IS ONLY FOR THE POND'S TO COMMUNICATE WITH OWNERS.**

Having your current email address on file allows the Ponds to keep you up to date on what is happening at your resort and saves on our postage expense.

I thank our Board of Directors and our on-site staff for their enthusiasm and commitment to our resort. The Board and I appreciate and thank you, the owners of our Association, for your confidence and continued support for our decisions in the management of Foxhollow. We welcome those new owners who are now part of our Foxhollow family.

As always, we welcome your comments and constructive criticism. We appreciate and thank you for your continued support. On behalf of the Board of Directors, our staff and Management Company, and my wife, Maria, we wish you a very healthy, happy, and blessed holiday season.

Sincerely,  
Mahlon "Woody" Cashman,  
President, Board of Directors  
The Ponds Association at Foxhollow