

COUNTY COUNCIL



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August 20, 2015

Tor Boschen  
Timberline Special Service District  
Vice President, Timberline Lot Owners Association  
4990 Ponderosa Dr.  
Park City, Utah 84098

George Michalko  
Chair, Timberline Special Service District  
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7836 Douglas Dr.  
Park City, Utah 84098

Todd Hoover  
Vice Chair, Timberline Special Service District  
4607 Balsam Dr.  
Park City, Utah 84098

Re: Timberline Special Service District

Dear Tor:

Below is a response to inquiries that we have received regarding Timberline Special Service District ("District"), and its roles and responsibilities. We wanted both the District and the Timberline Lot Owners Association ("HOA") to have this information.

In 1964, the Timberline Subdivision, Plats 1 and 2 (together, "Timberline") were approved and recorded with a general dedication to the public of the roads within Timberline.<sup>1</sup> However, since these public roads were not designated at the time on the Class B County Road Map, they are today regarded as Class D County Roads under UCA §72-3-105. A Timberline Lot Owners Association was formed to provide water service to Timberline. There is no recorded deed or easement giving the HOA ownership of the roadways within Timberline.<sup>2</sup> The Timberline Special Service District was established by the

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<sup>1</sup> UCA §72-5-104 provides that a "highway is dedicated and abandoned to the use of the public when it has been continuously used as a public thoroughfare for a period of 10 years." Consequently, even if the owners' dedication were to be determined to be "vague," the roads are still public by virtue of the road dedication statute.

<sup>2</sup> In fact, while the HOA has referenced its Declaration of Covenants, Conditions and Restrictions (CC&R) pertaining to Timberline, the County can find no such recorded instrument in the County Recorder's Office.

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County in March 1987 and took over water service from the HOA.<sup>3</sup> In 1995, the County expanded the role of the District to include the maintenance of the public roads and snow removal services (Resolution 95-5 and Resolution 95-8). There were no protests filed at that time opposing the expanded role of the District. Special service districts cannot maintain private roads; hence, the recognition in 1995 by all parties that the roads were public. In 2005, the District annexed into the Mountain Regional Water Special Service District (“MRW”) and turned over its water assets to MRW, leaving the road maintenance and snow removal roles to the District. The role of the District is specifically spelled out in Summit County Code §2-38-1 (2009):

To provide for the public health, safety, and general welfare of the residents living within the jurisdictional boundaries of the Timberline special service district, the district is authorized to provide transportation and snow removal services.

As part of Resolution 95-8, the District was given the authority to impose a service fee on residents within Timberline to pay for the costs associated with road maintenance and snow removal services. Apparently, these fees are not being imposed through the County’s Property Tax Notice system, but are directly billed by the District.<sup>4</sup>

It is the responsibility of the District to develop goals and a plan for the maintenance of the Class D public roads within Timberline. These goals and plan should be based upon sound engineering and construction principles. Such could include the paving of roads, improvement of the roadside drainage system, improved means of gravel road maintenance, and so on. We offer the services of the County Engineer and Public Works staff to provide consultation advice to the District. However, the District alone is charged with contracting for professional engineering services to develop its goals, plan and funding mechanism for road improvements. The County Council recommends that the Administrative Control Board develop a comprehensive, long-term plan which focuses on four elements:

- Health, safety and general welfare of the Timberline community;
- Efficient and effective uses of public funds to meet the goals of your plan;
- Safe and reliable access to Timberline for the delivery of County services, including fire and public safety personnel equipment and solid waste collection; and
- Protection of area waterways from road sediment.

The District may petition the County Council, as the local highway authority, to have the Class D roads within Timberline re-designated as Class B County Roads and, thereafter, placed on the official County Road Map. This would make the Timberline roads eligible for Class B Road monies from the State. The District could then seek an interlocal agreement with the County to allow the County to pass through

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<sup>3</sup> The HOA officially assigned the water system to the District in May 1993.

<sup>4</sup> It is important that the District not co-mingle its service fees with assessments charged by the HOA.

these Class B Road monies to the District for road maintenance. The amount of Class B Road monies is based upon two factors: road miles and the type of road surface. Paved roads are eligible for more funding than are gravel roads.

If you have further questions, please contact Derrick Radke, Public Works Director, at (435) 336-3978.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Carson".

Kim Carson  
Chair

cc: Tom Fisher, County Manager  
Derrick Radke, Public Works Director  
David L. Thomas, Chief Civil Deputy County Attorney

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