

### **OBSC General Membership Meeting – Spring 2023**

The meeting was called to order by the President and roll call was taken. Board members in attendance were: Don Rica (President), John Wagner (Vice President), Cathy Lentini (Treasurer), Kathy O'Brien (Secretary), Greg Canniff (Building & Grounds), Barbara Ring (Beach) and Kathy Friedman (Marina). Don announced that a quorum was met. Don asked for a veteran to lead the Club in the Pledge of Allegiance and for a moment of silence in memory of those members who died since our Labor Day meeting and in honor of our service men and women on Memorial Day.

Barbara Ring thanked and introduced the Captain of our lifeguards, Joe S., who handed out and explained written "beach rules" and who spoke about the crew for the coming season, the attempted "takeover" by Monterey ("crowded like Coney Island") of our beach and the need to wear/check badges and remove chairs/tents Monterey people set up on our beach before lifeguards get there in the morning, the allowance of no more than 6'x6' cabanas (weather permitting), the July 23<sup>rd</sup> Lifeguard Tournament, August Family Day and the need for volunteers to help get the boat on the beach at the start of the season on June 17<sup>th</sup>. Nancy Cardinale (#211) cautioned about kids burying each other in the sand. An unidentified woman (talked about "ratting out her own son" on this issue. An unidentified firefighter (the meeting was held at the firehouse) interjected that holes should be no deeper than the knees of the shortest person in the party and he advised that sand weighs 80lbs. per square foot. Captain Joe S. advised that our beach is #5 for purposes of calling Toms River in case of an emergency. An unidentified person asked if "Beach Butler" or similar companies are allowed to set up chairs, umbrellas, etc. for members or renters. Captain Joe S. responded that Toms River police told him "No"; we own the beach and they should not have access.

#### **Trustees' Reports:**

##### **President:**

Don asked who, other than Board Secretary, was recording the meeting. Suspended member Tom Hungrige (#47) advised that he was recording. Don reminded everyone that our Association relies upon volunteers and thanked the following: Pete Van Nest (#262) for cleaning up the cul-de-sac after a storm, Eric Friedman (#212) for saving boats and doing repairs on marina, and Joe Klenner (#257) for helping out with membership. He stated he would like to form a social committee and selected Roxanne Rica (#250) and Erin McGourty (#40) to head that committee.

Don noted that our By-Laws needed clarification and updates and when things are not black and white, the Board has the authority to make decisions. He stated that the Board welcomes input. He stated that "sometimes the rules and by-laws are in conflict with what we believe." He said he would step down if he could not enforce the rules and by-laws he disagreed with. He reiterated that he believes we have the best street on the barrier island.

#### Beach:

Barbara addressed the walkway to the beach and advised that, while it is not currently permitted properly, as built it is in compliance with CAFRA. No other beaches are filing for their own CAFRA permits/updates. Toms River's application/permit covers us and all other TR beaches. Regarding the "takeover" issue with Monterey, we were considering a barrier but now will do tall flags and the issue seems to be worked out after meeting with Monterey's President; if not we will just call cops. If we need to build a permanent barrier, we'll need a CAFRA permit.

Nancy Cardinale (#211) expressed the need for ADA handicap access to and from the beach; the existing handrail gives people splinters. Greg (#202 Building & Grounds trustee) advised that we tried to get a banister attached to our current rail and Toms River did not allow it. Don and Barbara said they would check into a banister, again. Cathy Gonzalez (#200) recommended "sticky handles" every few feet. Barbara will call Toms River.

Bonnie Lanza (#52) asked if we could remove sand where dune grass was planted. Barbara responded, "no" because they are supposed to be naturally forming dunes. In the fall, for free, we can pick up new beach grass to plant.

#### Treasurer:

At the last general membership meeting, Cathy reported that \$16,000 of Club money was unaccounted for. She asked for additional documentation from former trustees and received some documentation for \$14,600 (although only a portion could be "matched" to a Club expense/project with the documents she was given). She was told approximately \$3,000 was paid to workers in cash. \$1,400 was still totally unaccounted for as cash withdrawals of Club money from an ATM. She said, "It is what it is, and we are not able to chase that." In addition to those expenditures by the prior Board, \$600 spent by the prior Board for "Trustees' gifts" to Charlies Restaurant in Bay Head has depleted this Board's "social budget" by half.

Tax returns for 2019, 2020 and 2021 were submitted by the end of 2022. Regarding 2022 taxes, our accountant filed for an extension because of missing records. Cathy is working with the accountant to obtain records.

Travelers will no longer issue our Directors and Officers coverage because of the litigation with the Woods and the letter the Club received from the Hungrises threatening litigation against the Club's Board of Trustees. We are covered until the end of June (includes continued coverage for all current claims). Our agent is looking for other coverage. We currently have \$2 million in coverage with a \$5,000 deductible; Board agreed to decrease coverage and increase deductible in order to obtain coverage. Suspended member Tina Hungrige (#47) was allowed to speak; she stated that the Hungrises did not file a lawsuit against the Club. Cathy responded that the insurance claim was initiated when the Board received a letter from the Hungrises' attorney which threatened a lawsuit. Donna Romano (#43) asked for clarification. Cathy Lentini reiterated that when the Board receives a letter such as the one it received from the Hungrises' attorney, the Board has an obligation to report it to the Club's insurance company – that's what triggered a claim and factored into the insurance company's decision to drop us. Susan Lambariello (#48) confirmed that reporting such letter is required and it does trigger a claim.

Bonnie Lanza (#52) asked "Is the Board suing Tom and Tina? Is that something that should be voted on or let us know?" Don advised that the Board sued to uphold the deed restriction; the Board voted on the issue and a majority of the Board voted to sue. Don advised that it was not a unanimous decision. Don advised that Greg is the point person dealing with the attorney. Susan Lambariello (#48) said "There was supposed to be a special meeting." She stated, "We have a right to decide if this is money well-spent." Donna Romano (#43) asked, "Is it up to you guys to make that decision?" Greg responded that, as explained in the Board's January 17, 2023 letter, the Hungrige deck violates the deed restriction and the Board has a duty to enforce the deed restriction.

Don said he would discuss the litigation as much as he could but had to be careful since the litigation is ongoing. Donna Romano (#43) asked what the Board was suing the Hungrises for. Greg responded, "Removal of the illegal deck" as explained in the Board's January 17, 2023 letter to the membership. Donna Romano (#43) stated she didn't read the letter and asked why the deck was illegal. Greg referred her to the January 17<sup>th</sup> letter.

Don stated that, while he was limited in discussing the details of the Hungrige litigation, "we can all agree that what transpired was not appropriate." He explained that he believes the By-laws have gray areas and need revision although he also believes they do allow for the Board

to go forward with the litigation as they did. Don stated he will ask for volunteers to work on a By-laws review committee before the end of this meeting. Don explained that, although the By-laws allow for a special meeting to be called, once the litigation was started, calling a special meeting was a moot point. Nancy Cardinale (#211) asked how long the lawsuit can go on and was there a chance at settlement. Greg responded that there was a Court zoom hearing yesterday, the matter was on the fast-track and the final hearing will be held in September and that whether the matter could be settled depended on the Hungrises.

Michele Bickford (#137) asked what was spent on the Hungrige litigation. Cathy Lentini (Treasurer #237) stated that she hadn't finished giving her Treasurer's report and the cost of the litigation was addressed therein. Michele Bickford (#137) also commented, "What's the point of having rules if they're not going to be followed and enforced?" Darlene Pereksta (#207) agreed that members have a right to know how their money is being spent. She stated that she understands the Board can't speak about the pending lawsuit but noted that she has been asking at the past few General membership meetings for the costs and outcomes of prior litigation and legal matters that have been resolved. She did not recall the membership being advised/consulted about those costs or advised of the final outcomes. Don said he received and reviewed some files from lawyer Walter LaCicero who represented the Club in the past but did not believe that he received Walter's complete files/bills. Some of the information/costs in those files were incorporated into Cathy L.'s report.

Annette Cicinelli (#108) agreed that the Hungrises should be penalized through fines because he went outside the deed restriction and that the Hungrises should have to pay for attorneys' fees to change the deed restriction and the By-laws. She stated that the Club should not amend its By-laws; it should hire an attorney to help it do so. Erin McGourty (#40) asked are we as members allowed to vote on whether to continue with the Hungrige lawsuit and is the Board willing to mediate. Don stated that he would look into it. Don also stated that if we had an outside agency approving all plans, this probably would not have happened, but hiring an outside agency costs money. Annette Cicinelli (#108) stated lawsuits cause problems, such as with obtaining insurance. Bonnie Lanza (#52) wants to know if the Board legally proved that the Hungrises broke the By-laws – she thinks the height limitation and "no parking" on the street is ridiculous and decreases property values. Barbara Ring (Beach trustee/#133) stated that the Board has an obligation to enforce the deed restrictions and the By-laws, and the Board could be sued if they did not uphold their obligations.

Mr. Monsell (#55) stated that being on a volunteer board is a thankless job and it appears that is Board is doing what is supposed to be done under the current By-laws. He stated that the By-laws should be revised as to the procedure to be utilized to enforce our By-

laws. Greg Canniff (Building & Grounds trustee/#202) stated the Hungrige deck is not a By-laws issue; rather, it's a violation of our deed restriction. Greg explained that it's a straightforward issue: the Hungriges' deck rails and part of their staircase exceed the 17 ½ ' height restriction stated in the Court Order which defines our "one story" deed restriction. He stated that the Hungriges' deck is unprecedented.

Brian Kramer (#238) asked if a deck railing is included in the height restriction? Don responded "yes." Don stated Board has a fiduciary duty to do something otherwise "we blow everything up."

Susan Lambariello (#48 OBB) said, when she was on the Board, it was tough to decide what to do about certain issue and she recognizes this Board's fiduciary duty, but she does think there needs to be a litmus test as to how far you go with it and letting people know about spending. Susan then discussed the "beach box, lightpole, shower location issues" and the reason the Board spent money on those issues was to keep light and water on the beach.

Guy Lissak (#28) recognized that the Board had a right to litigate but wants the By-laws to be revised on that issue and asked if there was any way to back out and go to mediation. He said, "because if Tommy's costing me money, I'm going to be mad at him." He asked if the membership could be included in these decisions because the Board has a duty to protect each of our investments and he feels that lawsuits discourage potential buyers. Barbara Ring (Beach trustee/#133) advised that there were multiple attempts to resolve the issue with the Hungriges before we got to litigation. Unidentified man stated that "this has been going on since the 70's." Others speaking; inaudible. Darlene Pereksta (#207) addressed Susan's statement that her Board needed to protect the lightpole and the shower on the beach and that they spent Club money to do so. Darlene stated that this Board has a similar duty to protect our deed restrictions. Darlene further stated that many people are mistakenly using the terms "deed restrictions" and "By-laws" interchangeably. She noted that they should check with their attorneys because: a deed restriction is different than a by-law, a homeowner has a right to rely on a deed restriction as it appears in the homeowner's title and is a property right, and a deed restriction cannot be changed like a By-law can. Don asked what the mechanism is to change it. Darlene stated that all restricted homeowners must agree to the change as they would be giving up a property right, but again, stated they could check with their attorneys. Don stated that he'll get a legal opinion on his own dime because requiring 100% agreement doesn't seem democratic. Don acknowledges that there is not a consensus in support of change.

Cathy Lentini (Treasurer/#237) continued with her report. She advised that the \$10,000 professional fee budget was exceeded. We paid \$5,000 as a deductible for the Hungrige claim

against the Club. We paid an additional \$5,000 retainer to file the lawsuit to remove the deck. Unexpected expenses that we inherited are as follows: we paid \$4,200 to Walter LaCicero, Esq. for attorney's fees incurred by prior Boards; and \$1,800 to resolve the beach walkway. Cathy L. advised that there were monies rolled over from last year that could be used for a "rainy day" and they could be used to defray litigation costs and avoid burdening the membership. She advised that the bulk of the Club's money is spent on payroll.

Don asked Guy Lissak (#28) to head up the Committee to revise the By-laws. He advised that it should be comprised of at least five members.

#### Marina:

Kathy Friedman (Marina trustee/#212) reported that the marina was 100% full. She does not foresee any major expenses in the near future.

#### Building and Grounds:

Greg Canniff (Building & Grounds trustee/#202) advised that the Club received a large tax increase on the Marina property. We hired an attorney who took the tax appeal on a contingency basis. The Toms River tax assessor quit because of all the challenges that were filed and, therefore, appeals are delayed.

Greg addressed the erosion problem at the bay bulkhead. He stated he needs volunteers to help with the necessary repairs.

Greg advised that some new cracks have opened up in the street and others, that were already sealed, have reopened. We will probably need another treatment in the fall.

He reported some small repairs that he will take care of in the coming week: replacing the cleat on the flagpole and the painting of benches (volunteers will be needed). Some benches are slowly eroding.

Greg asked for a Nominating Committee to obtain bios for the open positions. Susan Lambariello (#48) was selected as the Chair.

### Membership:

John Wagner (Membership trustee #232) advised that we have two new member families; only one was present at the meeting. He introduced Brian and Sherry Kaczka (#229). Sherry advised that she grew up on the street - her parents (the McKeever's) have been here for thirty years. She loves the physical layout of the street and looks forward to raising her children here.

John advised that one member was still in arrears in paying their dues.

John projected that our rental badge fees should meet the projected goal.

He advised that there will be a new Directory put out in the fall.

### Secretary:

Kathy O'Brien (Secretary/#220) asked for approval of the Fall 2022 General Membership Meeting Minutes. Susan Lambariello (#48) objected to the word "questionable" (to describe past accounting practices) appearing in the minutes. She said she doesn't care if it was actually said at the meeting, she doesn't want it to be memorialized in the minutes. Cathy L. stated that, at the time the word "questionable" was used, \$16,000 of Club money was completely unaccounted for. Ed Haney (#136) stated that whatever was said at the meeting should appear in the minutes. Don asked Susan what word she wanted; she stated "unreconciled." Don asked for a motion to amend the minutes. Donna Romano (#52) made the motion; Eileen Lissak (#28) seconded and the motion passed. Don asked for a motion to approve the minutes. R. Monsell (#55) made the motion; Eileen Lissak (#28) seconded and the motion passed.

### Misc.:

Guy Lissak (#28) asked that anyone who wanted to be on the By-laws revision committee contact him via the email in the Club Directory.

Don asked which members have recently decided to live here full time. He noted that he believes it make a difference in your views if you're living here full time vs. living here on weekends.

Meeting was adjourned.