

High Bar Harbor Yacht Club
Owner's Meeting Minutes
Sunday, December 6, 2009

Board Members

Mark Finelli - Absent
Jim Frank – Present
Dave Hall – Present
Meaghan Cannon-Keough – Present
Bruce Shulan – Present

Employees

Mark Hazley – Present
Stacy Bernstein – Present

The meeting was called to order at 11:00 am at the HBHYC Clubhouse

Planned Agenda

Marina Manager Update: Mark Hazley

- Dock resurfacing continues and we should complete the south walkway to the corner of F-dock this winter. We are currently purchasing lumber at \$600 for 96 pieces in 14 ft lengths which replaces approximately 100 ft of decking.
- Repainting of the power pedestals on all docks is complete.
- Power pedestals have been lubricated and serviced.
- Electric Meters/Power Pedestals – as of last reading there are 12 meters that are not functional. Replacement parts cost will be \$1500.00.
- Safety Ladders have been installed three (3) on the North side between A/B/C-docks at a total cost of \$300.
- Replaced two (2) fence posts along side North walkway.
- Air conditioners have been serviced and winterized.
- Ice eaters have been serviced or repaired and will be installed prior to December 23rd.
- Gas grills have been cleaned, painted, and replaced burners and grates. Replaced lava rocks, installed covers. Ready for spring.
- Refurbished temporary fish station – sanded, re-fiber glassed top surface and stained.
- South dock floats – replaced four (4) floats due to water penetration at \$80 per float.
- Water/Pump-out systems have been winterized.
- Pile guide – removed and replaced one (1) broken and corroded on I-dock.
- Inside bathrooms – removing wall tile that is on the floor and replacing with correct floor tile. One bathroom is complete. Both bathrooms on right side of lower level will be completed at a cost of \$500.00.
- Water damage from Upper Deck on the West side – installed 3” fiber glassed overflow drains on North/South side at a cost of \$900.00. The interior damage to sheetrock was repaired at the washer/dryer and two (2) lower inside bathrooms. Re-painted bathrooms, washer/dryer area and TV room.
- A non-operational wooden boat was removed from A-dock. Additional boats at HBHYC may be in similar condition which is a concern as they cannot be safely moved in the event of an impending emergency without exposing personnel to risk of injury and the

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property to risk of damage. *As per Master Deed, Table of Contents # 10, Letter "N" Restrictions all boats shall be operational, and capable of navigation.*

- Miscellaneous item repair
 1. Replaced frost free spigot North side of building. Sublet at \$200.00
 2. Start and check snow blower operation
 3. Replaced three (3) broken pump-out access hatches on G/H/J-docks.
 4. Replaced lighting ballast in office lights at \$40.00

- November 11th Nor'easter storm
 1. E-dock finger pier aluminum and float repair
 2. Float repair on D-dock
 3. Float replacement on K-dock due to damage to floats
 4. Bridge bolt and wood replacement
 5. Wireless antenna on building blew over, re-secured
 6. Repaired broken pile guide on K-dock
 7. Atlantic Electric power line repairs on poles at street, North and South.
 8. Installed plastic on 3-piling due to excessive wear from pile guides.
 9. Debris clean-up.

- Winter projects
 1. Pool area fence replacement. The new railing will be identical to the railing recently installed on the upper deck. The work will be done by Kretzer, who did the building residing, at a cost of \$16,000.00
 2. The kitchen cabinets and counter top will be replaced at a cost of \$4,500.00
 3. Old shrub and dead tree removal on West side of property (Sunset Blvd side).

Office Manager Update: Stacy Bernstein

- Three (3) boat slips have sold.
 1. G-14 (35ft) at \$58,000/September
 2. H-13 (35 ft) at \$50,000/October 2009
 3. G-01 (35 ft) at \$30,000/October 2009 – *PLEASE BE ADVISED THAT THIS PURCHASE PRICE WAS AGREED UPON IN 2002 – HAS BEEN TIED UP IN THE LEGAL SYSTEM FOR SEVEN (7) YEARS. THIS TRANSACTION IS NOT A COMPARABLE FOR TODAY'S MARKET.*
 4. Currently there are 21 boat slips for sale.

- Rentals for 2010
 1. 18 boat slips rented for the Summer season
 2. Five (5) boat slips are reserved – waiting for deposit
 3. 17 boat slips are available
 4. Due to economy and judging from 2009 rentals it seems like we will have a similar summer in 2010. Some owners took 2- month rentals during the height of the season (July & August) or negotiated rates to have the boat slip rented. There were 14 boat slips that were available in 2009 summer.
 5. Our rentals are posted on the HBHYC website and in-office list. Discussed advertising in Waterway Guide and/or NJ Boater's directory for boat slip rentals (full summer season).

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As approximately 20% of the owners rent their slips, Dave Hall made a **MOTION** to research advertising options. Motion was **SECONDED** and **PASSED** (4 to 0).

6. Stacy recommended we update the website to include transient rental rates

- Electric meter billing went out prior to Thanksgiving.
- Late Fees will be sent out the week of Dec 7th
- One (1) owner is three (3) quarters behind. Stacy to follow the HBHYC By-Laws 6.8 Notice and 6.10. Interest and Counsel Fees, regarding this matter.

Dredging Project: Jim Frank

- Both permits have been submitted to NJDEP and Army Corp of Engineers as of November 30th. It is anticipated that it will take approximately 90 days to receive approval to proceed. Given the approval process, we hope to start the dredging sometime in March 2010.
- Jim plans to get an opinion from TK Marine (dredging contractor) about the ramifications of, if required, pushing the project back to October 2010.
- The current disposal quote expires at the end of 2009. The landfill may honor the current quote in early part of 2010 but we may have to request a new quote if our plans move beyond the first quarter of 2010.
- Mark Hazley indicated TK Marine may be able to take a portion of the spoils and dispose of them with Shoreline Grading who would use it as fill.
- Dave Hall suggested we work with TK Marine to investigate alternative landfills in order to reduce project costs.

Review of 2010 Operating Budget: Ed Meline

- Ed Meline distributed the current budget with year to date actuals and year-end estimates and included a 2010 estimated operating budget.
- Electric billing to owners/tenants was delayed but has since been sent out. The total billing is expected to cover all electrical expenses, excluding the marina's common areas (e.g. clubhouse, parking lot, etc).
- The projected slip lease income for 2010 is contingent on at least a 10% increase in standard rate rentals over 2009. During 2009, we experienced a drop in lease income as some owners' negotiated separate arrangement with tenants that had been originally introduced to the owner by the club. These separate deals excluded the 10% fees typically paid to the club for finding tenants for owners. Ed recommended a change to the standard lease agreement to include a stipulation that HBHYC continue to receive a 10% management fee on leases where the club originally found the tenant.
- Estimated Revenue and Expenses for 2010 are similar to 2009.
- Payroll increases are planned to be 2½% higher than 2009.

Review of Proposed Master Deed and By-Law Change

- Bruce Shulan indicated he had recused himself as a Board member on the Deed change issue.
- Prior to casting ballots by the owners present and the counting of the ballots, the floor was opened to all owners to voice opinion about the proposed changes.
- Without dedicating several pages to the topic; suffice it to say that the Board received extensive commentary on the process used for the recent ballots. It was agreed by all that a formal, documented process needs be developed prior to a ballot on any topic. It was also agreed that the board will work with interested owners to develop the process as soon as possible.
- The group explored both proposed changes. A short discussion of the By-Law amendment was followed a more lengthy discussion of the Master Deed Change. Dave Hall provided an overview of the proposed By-Law amendment.
 1. In regards to the By-Law change, removing a specific time period allows for better planning and preparation for upcoming projects.
 2. Intent is to allow Capital plans to be voted on earlier in the year while the Operating Budget will be distributed and approved later in the year (Dec/Jan)
 3. The Board will continue to distribute plans to owners for review and approval.
- Ed Meline raised a concern that the ballot was confusing as the approach to the ballot changed between what was issued in September and recalled, and the revised ballot that was issued in November where it was difficult to identify the recommended changes.
- Ed Meline opened the discussion on the Master Deed amendment. In summary, Ed offered several observations:
 1. The proposed change is global in nature when the issue is specific to two individual cases.
 2. The amendment as written could pave the way for additional problems in the future.
 3. If the desire is to find a solution for these two cases, other options may be more suitable.
 4. The request for a solution should be made in person by the owners exceeding the current limitations of the Master Deed.
 5. Any change to accommodate the two cases being discussed should require an engineering survey to protect the facility and should be done at the owner's expense.
 6. In any case, any change or solution should be voted on by all owners.
- Mark Miller spoke and agreed with many of the comments made by Ed. Additionally, Mark indicated:
 1. There is a difficulty with the process for managing exceptions. Owners having exceptions should bring the issue to the Board and then work together to develop a solution acceptable to all owners.
 2. He is concerned that the Board may give the appearance of favoritism as the proposed changes are not being made by the owners having issues.

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3. Mark highlighted a very serious issue. Mark provided an excerpt from the Master Deed which indicates you cannot amend the Master Deed in any way that affects "Common Areas". Among others, common areas include fairways, docks and finger piers. This limitation would invalidate the proposed deed amendment.
- Mike Drago weighed in on the proposed Master Deed amendment. Mike commented:
 1. The Master Deed does not accurately reflect the "meets and bounds" of the actual slips. The physical measurement of any slip may be different than what is called out in the Master Deed.
 2. If you consider the limitations of the Master Deed, he believes you cannot move pilings.
 3. Mike Drago reminded Board members and owners that Brad Honigsberg who owned E-dock prior to Mr. Sussman had a 110 ft Broward and asked the club to reconfigure the docks to accept boat. At that time, he believes the finger piers were removed.
 4. The fairway is a common area and the 5% over-hang deed amendment previously passed infringes on the Meets and Bounds.
 - Coleman Roach voiced an opinion that when you purchase a condominium such as our, boat slips, or a home in an adult community, there are certain rules and restrictions. Any owner should abide by the restrictions in force at the time of purchase; especially if it could adversely affect real estate value.
 - Pat English commented:
 1. Pat reminded the Board and owners that the Master Deed did not allow for dock boxes and that was changed. The point is that we should accommodate our neighbors if possible.
 2. Pat questioned that if an owner wants to combine his slip to accommodate a larger boat and if that change does not adversely affect other owners personally or HBHYC in general, then he personally believed that the consolidation of slips should be allowed.
 3. Responding to a point raised by Mark Miller, he stated he could not assume that master deed was set up in this regard for engineering reasons.
 4. Pat requested a clause in the Deed change to indemnify the club from potential damage caused by altered slip configurations.
 5. Pat noted a clear difference between the two situations regarding consolidated slips. Slips at a T-head require no structural alteration and whatever objections there may be to a consolidation requiring alterations, those objections did not apply at a T-Head.
 6. Pat noted that an attorney would have to render an opinion on the objections raised by Mark Miller based on the deed language, however the vote came out.
 7. Pat opined that it was unfortunate that this request came on the heels of Mr. Sussman docking an over length boat shortly after a vote of the members to restrict over hangs to 5%. It was his opinion that this could cause negative votes as a reaction to disregarding the recently adopted restriction. He suggested that the vote should be on the merits, not the result of a reaction to this violation.
 - Various comments from the Board during the discussion were:
 1. Club Indemnification as recommended by Pat English is an excellent addition to any solution and could be accommodated by procedure and would not require a Master Deed amendment.

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2. There is a concern that putting owner exceptions to a general owner vote could remove objectivity and result in a popularity contest. Ed Meline responded that the same could be said of a Board made up of only five (5) Owners.
- Throughout the open discussion several observations were made regarding the history of E dock. Notably E, dock was reconfigured to accommodate a 65 foot boat moored sideways with the finger piers removed for a number of years.

Vote and Tally of Ballots for the Proposed Master Deed & By-Law Changes

- All Ballots require a quorum of 1/3 of owners to cast a vote. Of those voting 66.7% of the slip weighted vote are required for a By-law amendment to pass and 75% required for a Master Deed amendment.
- Following the debate, the meeting took a 45 minute break for the ballots to be tallied. The results were:

- **By-Law amendment to allow more flexible capital planning:**

Total number of vote = 73	Yes = 58/No = 15		
Slip weighting	33.6	8.6	79.6% PASSED

- **Master Deed amendment to allow the spanning of slips:**

Total number of votes = 78	Yes = 53/No = 25		
Slip weighting	30.99	14.18	68.6% DID NOT PASS

- Following the tabulation of the ballots, several Board members raised concern that the issue raised by Mark Miller regarding the inability to make changes to the Deed, may invalidate several of the changes to the Deed made in prior years. It was agreed that we should seek a legal counsel regarding the club's ability to amend the Master Deed through a balloting process.
- Ed Meline voiced his reservations concerning the existing condo attorney (Christine Li) Ed felt Ms. Li was not thorough and neglected to submit her prior legal opinions in writing and failed to cite the NJ statutes on which her opinion was based. Additionally, Ed felt that Ms. Li should have made herself available at an owners' meeting to discuss the merits of her position and to answer the many owners' questions.
- Pat English cautioned the Board and the owners present, to consider the cost implications of having an attorney present at meetings. Pat stated that he had reviewed both the firm and Christine Li and found them both to have a solid reputation.
- Ed Meline suggested that a condo lawyer from southern New Jersey, or somewhere closer to the HBHYC could be found easily. He believes a search should be made to find an alternative, hopefully less expensive attorney. Based on the recent lengthy and costly discussion on last year's prior deed and by-laws changes, it would be advantageous to have local counsel that was more accessible and less costly.

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- Bruce Shulan noted that he has spoken with Ms. Li on several unrelated topics and found her to be concise, knowledgeable, and unbiased.
- Dave Hall made a **MOTION** to:
 1. Retain the existing condo attorney (Christine Li) having already have spent the time and money to get her familiar with our requirements.
 2. Require all legal opinions be provided in writing.
 3. Asked that Pat English represent the club in asking for an opinion from Ms. Li regarding this issue as Bruce Shulan has abstained due to a conflict of interest.
 4. The condo attorney will not be asked to attend Board meetings. However any owner who wants to further explore an opinion with the condo attorney may do so at the owners expense.

The motion was **SECONDED** and **PASSED** (4 to 0). The outcome of Pat's investigation will be reviewed at the next meeting

New Business

- Ed Meline distributed a draft process for balloting for use when either By-Law or Master Deed changes are proposed. The board agreed to review the material and include the topic on the agenda for the January 10 Board meeting.

Dave Hall made a **MOTION** to adjourn the meeting at 4:15pm. The motion was **SECONDED** and **PASSED** (4 to 0).

Next Meeting is Sunday, January 10, 2010

Meeting Schedule for 2010

Sunday, January 10th

Sunday, April 11th

Sunday, June 13th

Sunday, July 11th – Meet the Candidates

Sunday, August 1st – Owner's Meeting/Election

Sunday, August 8th – New Board Reorganization

Dates and times are subject to change.