

SHMPOA BOD Meeting Minutes for 6-28-2022
South Harbour Master POA SPECIAL BOD Meeting Minutes
Meeting Date: June 28, 2022; 9:00 AM
Meeting Location: SH Club House & via Zoom

OWNER COMMENT PERIOD

Following explanation of the meeting protocol and introductions, the following comments were shared by attendees.

- John McLendon – as MCC Owner & Board President – noted that he believes parking has improved based on warning notices. He also provided some history noting that “ferry” services transporting people to Bald Head Island have been a real concern since the start of COVID.
- Cindy Capps – Rusty Hooks Owner – expressed concerns about owners “policing” owners. She noted that there has been increased friction which is bad for the harmony of the community and bad for business.
- Mike Bianchi – Marina Manager – noted increased hostility since warning tags started.
- Steve Rosen – SHMU Manager – requested better pavement marking before enforcement, suggested stickers for owners/overnight guests and proposed that there be a reserved parking area away from the buildings.
- Ed Burnett – SOA Owner – questioned if the lot had to be taken and shared his concern that rules make a community worse. He noted that parking should be first come first serve. Ed suggested that the Board consider “breaking the deed”.
- Adam Berkowitz – as WPT Owner & Board Member – noted that because the Master is now the owner of the lot and has associated liability with the lot, he as an owner in South Harbour wants to make sure that the Master is protected with regards to safety and liability issues.
- Joe Borsuk – SHMU Owner – shared that parking was not historically a problem, fire lane signs are on, but policing/enforcement is a real problem.
- Carolyn Gherardi – SHMU Owner – thanked the Board and noted parking is a big challenge. She suggested an advisory board/committee to make recommendations to the Master Board.
- James Capps – Rusty Hooks Owner – questioned the condition of the parking lot, noted stormwater & drainage concerns and urged the Board not to accept the stormwater permit until issues are addressed.
- Kim Cardillo – MCC Owner – complained of parking being an issue for condo owners, especially when returning home from work during restaurant busy hours.
- Chris Hildreth – Inn Owner – noted that Bald Head guests using the lot are still a problem and believes that the parking situation was not working in the past. He noted that this is a large investment for all and space needs to be available for owners to use and protect their investment.

CALL TO ORDER

The meeting was called to order at 9:27 am by Adam Berkowitz, 2022 President.

IN ATTENDANCE

Adam Berkowitz	Roberta Guendelsberger	Leon Hicks
Jim Cross	John McLendon	Joy Phelps, LRES
Bill Martin	Carson Lawrence, LRES	

Absent: MaryJane LeKanides

7 Owners attended in-person and 15 Owners attended via Zoom.

APPROVAL OF AGENDA

The agenda was approved as presented.

MARINA COMMON AREA PARKING LOT

- **Future Master Board Meeting Invites** – Adam noted that it has come to Board’s attention that email distribution of information regarding SHMPOA Board Meetings has historically only gone to the 9 Class A Member Associations, along with the general notices about socials, amenities, etc. Class B Members has historically only been sent Annual Meeting information. However, going forward LRES will send all Board Meeting notices to all Class A & Class B Members.
- **Fire Lanes** – John McLendon made a motion and Leon Hicks seconded that we (SHMPOA) install signage indicating that O’Quinn Blvd, O’Quinn Blvd extension and Fish Factory Road near the Marina entrance are Fire Lanes pursuant to our authority under NCGS 136-30(c). Under discussion, John noted that he has two NC standards compliant fire

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lane signs already free of charge. Several more may be needed. The motion passed unanimously.

- **Marked Parking Spaces versus Unmarked Parking Spaces** – John McLendon provided a point of information that NC 2018 Fire Code, which is incorporated into the NCGS by reference, contains the following definition: "FIRE APPARATUS ACCESS ROAD. A road that provides fire apparatus access from a fire station to a facility, building or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane and access roadway." Put another way, there is no such thing as an unmarked parking space as they are, in fact, parking lot lanes which are fire lanes as required by the building code. Adam noted that he was concerned about cars parked on the side of the road and lawns causing damage and potential future additional maintenance costs. Leon asked if there were ways to expand the parking lot. Leon made a motion and Roberta seconded to study possibilities to expand parking into the adjacent grassy areas where cars are currently parked. Under discussion, John noted that any modifications to the space would require the Town to be involved and remove the current "grandfather" status of the lot resulting in an overall loss of spaces. Adam voiced concern that this was premature discussion. The motion failed with Bill & Leon voting for and Jim, Adam, John & Roberta voting against. Prior to additional discussion, the Board considered the suggestion made during owner comments of developing a Marina Parking Lot Ad Hoc Committee. After several draft motions being considered but not seconded and a desire being expressed to broaden the scope of the Committee, a Motion was made by Roberta and seconded by Leon to create a Marina Parking Lot Ad Hoc Committee made up of benefited member representatives and at least one Master Board liaison to evaluate and make recommendations regarding the use, maintenance and regulations of the marina parking lot. The motion passed with all in favor. Another motion was made by John and seconded by Leon to have John and Bill both serve as Master Board liaisons to this Ad Hoc Committee but in discussion John agreed to amend the motion to have Bill serve as the only liaison and Roberta seconded; motion passed unanimously.
- **Reserved Spaces and Associated Signage** – Adam voiced concerns about safety and expressed belief that parking should be first come first serve. Leon shared that he thought this issue should be referred to the Parking Lot Committee. John expressed concerns about delaying. John made a motion that was seconded by Roberta and passed unanimously to give the Marina Parking Lot Ad Hoc Committee 30 days to evaluate and come back with recommendations for the Master Board.
- **Parking Enforcement and Towing** – Adam noted that Warning Notices approved at 6/10/22 mtg were placed on vehicles by Master Board Members & LRES staff from approximately 6/10-6/23. Notices were discontinued based on Benefitted Member complaints and request for meeting. Adam further noted that parking in fire lanes is a safety concern. John made a motion about enforcement on a trial basis that was not seconded. It was noted that not all "no parking" spots are marked and that rules such as no parking in front of a hydrant should be common knowledge or "rules of the road". It was noted that the Town will not enforce fire hydrant laws on private property and that LRES would have to enforce. It was agreed to refer this to the Committee. Roberta made a motion seconded by John to preserve fire lanes via warning and towing vehicles parking in marked fire lanes to begin immediately without date restrictions; motion passed by majority with Leon dissenting.
- **Warning Signage and Street Markings** – John noted that he has extra signs already. Leon made a motion seconded by Jim to have the Committee address and develop a comprehensive plan regarding all remaining enforcement and signage items. Adam noted in discussion that he did not believe the Board should limit their own authority for the remainder of the meeting. The motion passed by majority vote with Adam and Roberta dissenting.
- **Update on Deed Transfer and Negotiations with the Declarant**
 - **Legal Option:** Adam shared that according to the Master's Attorney, *"there are no provisions in the Declaration that reference the maintained state any Common Area must be in when deeded from the Declarant to the Association. Section 4.2 of the Declaration provides that the Board shall establish the general standard of Upkeep for the Properties and Common Area; but that further suggests the responsibility of Upkeep rests with the Association, not the Declarant. There is no provision in the Declaration to rely on to force the Declarant to restore the parking lot to a "like new" condition prior to deeding it to the Association. Because the Association cannot refuse the transfer of title of the parking lot, we believe the best path forward is to negotiate and come to an agreement on the extent of repairs/work the Declarant is willing to do to the parking lot."*
Adam further noted that at 6/10/22 Board Meeting, Board approved of LRES negotiating with Declarant while copying Board Officers on all emails. Based on this meeting being scheduled and delays in paving quotes, LRES has not started those negotiations. John also offered a point of information that the parking lot was referenced in the Declaration.
 - **Paving Quotes:** Adam noted that LRES has continually asked Highland Paving to provide a quote for

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resurfacing the entire lot to be used in negotiations. However, Highland has not responded to the numerous requests nor provided any figures. The Master has another paving vendor working on a project on Glen Cove, that vendor is working on quotes for both the repairs and resurfacing.

- **Common Area Encroachments** – The Board noted that there are concerns about future title disputes and maintenance of improvements on Master Common areas. At 6/10 Board Meeting, Master Board approved of Attorney being consulted as Benefitted Members expense within the regular budget. It was reiterated that LRES was to send to attorney for development of a legal form.

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- Ed Burnett – SOA Owner – reiterated that since the stormwater permit for the marina area has not been transferred that it should not be accepted and advised that this should be used as a negotiating tool.
- James Capps – Rusty Hooks – agreed that negotiations should be tied to the stormwater permit transfer.
- Cindy Capps – Rusty Hooks – suggested that someone reasonable should be in charge of discussions with benefitted members. She urged open communication and volunteered for the Committee.
- Safe Harbor/Marina Rep – noted that only one rental slip is a Bald Head contractor and 1 privately owned slip. No additionally live aboards are being allowed based on new lease application/regulations. They request stripping and fire marshal involvement before enforcement in order to not negatively impact businesses.
- Steve Rosen – SHMU Manager – thanked the Board. Requested a map to clarify fire lanes. Urges Board to consider passes. *Numerous Board Members responded that they would appreciate a map clearly showing fire lanes.*

EXECUTIVE SESSION *Started at 10:40*

- **Committee Size** – John made a motion that was seconded by Bill and unanimously approved to have the Committee be made up of 8 members with 1 member per benefitted member with the exception of Mixed Use/Inn having 1 per building (a total of 3).
- **Map** – John agreed to have a map prepared before the Committee meets.

MEETING ADJOURNMENT

A MOTION was made to adjourn the meeting. The motion PASSED unanimously. The meeting adjourned at 10:53 pm.

Respectfully submitted,
Carson Lawrence, Secretary
Lawrence Real Estate Services