

**MINUTES  
ROCK HARBOR  
PROPERTY OWNERS ASSOCIATION  
3<sup>rd</sup> Annual Meeting  
August 11<sup>th</sup>, 2012**

The Rock Harbor Property Owner's Association met on August 11<sup>th</sup>, 2012 at 3:00 pm at First Avenue Hall located at 409 1<sup>st</sup> Avenue, New Tazewell, TN 37825.

**Those present:** Kim Bergeron, Ray Bergeron, Paul Berryman, Anthony Bryant, Donna Bryant, Henry (Chip) Burwinkel, Mark Cade, Susan Cade, Deborah Chavers, Seaborn Chavers, Randy Clounts, Tammy Flanagan, Bruce Cox, Carolyn Cox, Jim Gregg, Kris Gregg, John (Bill) Grindle, Elaine Grindle, Chuck Keller, Donna Keller, Joyce Lamb, Larry Lamb, Robin Leib, Stanley Leib, Ben Parson, Carmen Pavon, Luis Pavon, Donna Sanger, Mike Sanger, Daniel Serena, Karma Serena, Marie Singer, Michael Singer, Barbara Weber, Lutz Weber, Pat Zmuda and Rob Zmuda

**I. Called the Meeting to Order/Welcome**

President Chavers called the meeting to order. Chavers indicated that a quorum was present with those in attendance and the proxies that were sent by mail.

Chavers introduced the following committees and committee members:

Board of Directors/Officers

Seaborn Chavers (President), Donna Sanger (Vice President), Larry Lamb (Treasurer), Gabby Pozo (Director at Large), Mark Cade (Director at Large)

Architectural Control

Mark Cade (Chairperson), Steve Kramer and Larry Lamb

Common Area Committee

Debbie Chavers (Chairperson), Joyce Lamb, Patty Crandall, Susan Cade, Robyn Wood, Donna Sanger, Jane Kramer

Communications Committee

Gabby Pozo (Chairperson), Seaborn Chavers, and Jane Kramer

Marina Committee

Larry Lamb (Chairperson), Dick Wood, Mike Sanger

Social Committee

Robyn Wood (Chairperson), Joyce Lamb, Patty Crandall, Susan Cade, Donna Sanger

Security and Enforcement Committee

Ben Parson (Chairperson), Mike Smith

**II. President's Report**

President Chavers reported that the Operations Plan was approved in January 2012 and reviewed details.

Common Area Landscape

There were two additions to the Landscape Agreement: 1) Riprap will be sprayed on first two mowing cycles and 2) roadways will be cleaned after each mowing to remove debris. Burwinkel asked if that covered all roadways or just the main road. He referred to Feldspar Street that hadn't been brushed. Chavers stated that the Landscape Agreement states that he will clean the roads after mowing grass; it is not a requirement to

sweep the streets after a storm. Chavers reported that Rock Harbor is mowed three (3) times a year and it typically takes about three (3) weeks to complete each mowing. Flanagan asked if the landscape contract was re-bid every year. Chavers replied it is an annually renewable contract and costs are validated periodically to confirm accuracy. Alternative contractors are not readily available to conduct the work.

Chavers reported the Recreation Area/Park now has a portable toilet. Also, two barbecue pits have been installed and the playground has been re-mulched. Installing electrical access in the Recreation Area/Park was considered for 2012, but put on hold until 2013. Two area solar-powered light poles were installed. The water fountain was repaired and is fully functional.

### Marina

In an effort to reduce annual costs, the dock-access floating walkway was permanently connected to the summer pool bulkhead. Chavers explained that the walkway will rest on legs at an acceptable slope to access the marina during winter pool lake levels. Chavers stated that the walkways require painting, but the action has been delayed until 2013 in order to fund more important marina issues in 2012.

Last year, the center hand rail of the parking lot stairway to the Marina was broken. It was repaired during the spring and is now safer. One retaining wall was installed at the perimeter parking lot using railroad ties; the remaining silt fence retaining wall will be replaced in 2013. Chavers reported a portable toilet has been installed at the Marina.

Chavers reported that it was requested last year the Marina have potable (drinking) water available and was installed during the Spring. The water from the dock-mounted faucet is lake water and not suitable for drinking; drinking water is only available at the faucet at the top of the marina walkway.

Berryman referred to the Rock Harbor Property Report, dated August 22, 2007, page 19, when he read the developer is not contractually liable to complete the boat slips. Chavers replied although the statement in the document exists, he disagreed based on the subsequent actions of their president, Will Adkins - Adkins stated verbally at the initial August 2010 Annual Meeting they intended to honor their marina commitment, wrote and signed a letter stating they intended to complete the marina and estimated the cost of completion was approximately \$650K. Chavers stated that the Board has tried to hold Waterfront Group to their promises - complete amenities they promised owners. However, the decision of Waterfront Group's owners to seek Chapter 7 bankruptcy protection this year will likely result in a court decision to discharge the \$710,000 debt claim the Board submitted on behalf of owners.

Chavers reported the marina can be finished to its permitted 180-slip capacity, but the owners will have to fund the completion if, and when, they decide they want it done. Before Waterfront Group owners filed Chapter 7 bankruptcy, the Association had a strong case for getting the marina finished. The board decided last year to keep pressing Waterfront Group to get items completed little by little; however, with the Chapter 7 filing, Rock Harbor was left with 72 boat slips and 240 feet of wave attenuators incomplete. Chavers stated the board determined the wave attenuators offered owners the greatest benefit and decided to get them in place with funding through a special assessment of \$98 per lot. Chavers reported the board decided to table completing the 72 boat slips because there is not enough demand currently to justify the expansion. This doesn't mean that they will never be completed; Rock Harbor is permitted by the TVA to add the additional slips until 2017. If they have not been added by 2017 then the Board can submit a request for another 5-year extension. Addition of the remaining 72 slips is a decision for a future Board and owners, and requires self-funding to pay for them.

Chavers referred to the special assessment letters sent out regarding the wave attenuator system. The plan is to complete the marina with some relative certainty that the property owners don't get surprised with a \$60,000 or larger repair bill after a storm - similar to the one we had in 2010 under Waterfront Group's watch.

Berryman stated he understood the special assessment deliberation and final decision is within the normal course of Board responsibilities. He stated the assessment is a 31% increase on base annual fees. He reported

that he is on a board of POA in South Florida and their board decided that they would go to the home owners and get a majority vote of home owners before assessing them a major landscaping renovation expense. He suggested that future assessments be voted on by the property owners before it is assessed. Chavers replied that he didn't disagree with Berryman in concept; however, Berryman's neighborhood, unlike Rock Harbor, is a fully populated community of full-time residence/owners and much smaller than Rock Harbor which makes their communications easier, timely and inexpensive. Rock Harbor is substantially different and comprised of nearly 500 owners, of which the vast majority (95%) are absentee-owners, and logistical and communication issues that are unique to Rock Harbor and different from Berryman's association had to be considered - as well as the availability of manufacturing resources to build the wave attenuator, the ability to build/install it at the lowest cost and time available to complete the project before adverse weather arrives in the Fall. Chavers stated the Board's action fully complied with its bylaws and the decision was appropriate.

Burwinkel reported that he supported the assessment to protect the structure of the dock that they currently have.

It was asked if the board considered increasing fees for the marina users in order to pay for the wave attenuator completion rather than a special assessment. Berryman stated that was an excellent point, he thought the marina users should pay a higher cost of maintaining the marina. Chavers replied the idea was considered by the Board. Currently, those who use the marina fund related variable expenses of the marina's operation (for example electricity, water and portable toilet) when they pay their annual Marina Use Fees as stipulated in the Marina Use Agreement approved by owners in last year's annual meeting. The Board decided since the wave attenuator system is a fixed asset and a permanent part of the marina complex and owned by all lot owners then its cost should be paid by all lot owners.

Cade discussed the Marina Use Agreement approved at 2011's annual meeting. A proposal was ratified to put in place storage fees for boats, trailers or both; and registering the vessel, etc. The purpose of the registration for the vessel is to identify the Rock Harbor vessels from those who are not. Cade reported that the board has a fiduciary responsibility and insurance would not cover any substantial damage, a million or more, if all of these pieces were not put in place. He indicated that the value would decrease on the lots if we did not have the marina and the wave attenuator system protects us from a substantial loss if insurance didn't cover it.

Chavers reported that Rock Harbor's insurance policy is a million dollar policy with a \$5,000 deductible. If there is damage to the dock with no storm relationship, then the damage is not covered.

#### Security and Enforcement

Chavers reported the 5% increase was from wages and fuel increases.

#### Common Areas

Chavers reported the budget included funding for replacement plants, but none required replacement to date.

#### Communications

Chavers reported that there has been one (1) newsletter this year; last year four (4). He stated that the newsletters in the past had been mailed out. In an effort to reduce costs, the newsletters have been put on the Rock Harbor website for property owners to view and copies emailed to owners who provide their email addresses.

#### Capital Improvements

Capital improvements for the future are as follows:

- Wave attenuator system – 2012
- Completion of 72 boat slips –tabled until there is a demand for additional slips
- Building for ownership group meetings with an office – 2014 or later

### **III. Finance**

Lamb reported that following information:

- POA dues billed totaled \$158,130 with \$136,641 (or 85%) collected.
- POA assessments billed totaled \$49,196 with \$22,450 (or 46%) collected.
- Marina user fees collected was reported as \$1,976; Lamb commented that the user fees are paying for the electric on the marina.

Lamb reported that the total balance billed as \$207,326 with \$160,067 (or 77%) being collected. The outstanding balance owed for dues is \$49,540, which is from the time the board took ownership from Waterfront Group to now. Lamb asked that all POA and Assessment dues be paid on time to help process those in a timely manner.

Lamb reported seventeen (17) lots have outstanding balances and thirteen (13) of those lots he can't contact. He stated that liens have been placed on the 17 lots. Danny Stone is the attorney who files the liens for Rock Harbor. Lamb stated that it is his intention if everyone agrees that Stone pursue in trying to collect those dues.

Flanagan asked who the Association's attorney is; Chavers replied Lee Dan Stone of Tazewell. She also recommended liens be filed quickly and at the highest level of priority when filed. Lamb communicated liens are filed timely and at the highest level permitted by law through our attorney.

#### **IV. Architectural Control Committee (ACC)**

Mark Cade reported that there are 32 homes in Rock Harbor with 28 being completed. Some homes have minor deficiencies and the committee is working with those home owners to clear up the deficiencies.

Cade reported since September 2010, the committee has authorized four (4) house constructions. Cade indicated that several houses are multi-year projects. It is duty of the ACC to ask questions; one of those questions is the estimated completion date. A year to complete the outside should be sufficient. Cade stated that the committee is trying to evolve and ask the right questions so that there are not repeat non-compliance situations.

Cade discussed setbacks from the road, left, center and right of the property. Depending on what street you are on, where the setback starts could be different. Burwinkel added that the set back starts from the property line which usually is not the roadway pavement.

##### Lot Restrictions

Burwinkel asked what is the incentive to have lot owners follow the rules in regards to gravel road in front of a house, or parking a boat on the driveway for over three (3) months, etc. There are several restrictions and is there any incentive to have the home owners comply with the covenant? Chavers said it is important to understand the home owner's situation and address issues directly with them informally with the goal of seeking resolution, but if that approach is unsuccessful then there is a formal process the POA must follow.

1. A notice of "cease and desist" is sent – follow up with a phone call or face to face visit
2. Formal hearing – the home owners is invited to come before the board to submit their case. The board makes a decision that is legally binding and can penalize offenders a daily fine until the discrepancy issue is resolved.

Donna Sanger stated that there are only seven (7) full time residents. It is difficult to get everything done at one time. Chavers added that part of the challenge is the time factor. After notifying the home owner, there may be a logistical obstacle. For example, the home owner may be in South Florida and can't take care of the issue right away, but communicates their plan to correct the problem at an acceptable time.

The general consensus of the group was a covenant compliance inspection process should be implemented providing more oversight and verification owners are abiding by the covenants and restrictions. Chavers agreed.

**V. Final Candidate Nominations/ Statements from Candidates**

Chavers asked if there were any candidate nominations from the floor. None were noted. He then asked if the candidates present wanted to make a statement before voting took place.

Serena stated that she appreciated what the board has done and personally thought Rock Harbor is the best community in the area. With the property owners' votes, she stated she will work hard to make it a premier community. Cade stated he would continue working diligently for owners. Gaby Pozo, the other candidate, was not present, but Chavers stated she has offered valuable insight in association matters during her 2-year term.

Mike Sanger commented that it is nice to have a board member who is close and accessible. He stated that is something that helps make his decision when voting.

Members voted and Chavers recessed the meeting at 5:11 pm for the counting of ballots then reconvened at 5:20.

**VI. Election Results and Comments**

Chavers announced that Mark Cade received 100% of the vote for re-election as Director at Large. Karma Serena received 70% of the vote for election as the remaining Director at Large position.

Chavers stated that a newsletter would be published and uploaded to the Rock Harbor website to summarize the annual meeting and election results.

There being no further business brought before the Rock Harbor Property Owners Association, the meeting was adjourned at 6:00 pm.

**VII. Signatures**

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Seaborn W. Chavers, Jr., President

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Donna Sanger, Vice-President

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Larry Lamb, Treasurer

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Mark Cade, Director-at-Large

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Karma Serena, Director-at-Large