

## **Lexington Heights, Inc.**

### **Annual Meeting**

**June 25, 2022**

#### **I. Call to Order**

The meeting was called to order at 10:07 by association President, Bob Alimpich.

#### **II. Trustees Present**

Liz Alimpich, Bob Alimpich, Renee Jobbitt, Diana Larsson, Don McColman, Kurt Riese, Lynn Secord, Gladys Stablein, and Dottie Schulte

#### **III. Invocation**

Steve Minnick gave the invocation petitioning God for guidance, good health, and safety for our community.

#### **IV. Pledge of Allegiance**

Bob Alimpich lead the community in the Pledge.

#### **V. Reading of the Minutes**

Lynn Secord read the minutes from September 11, 2021. Ben T. motioned to accept the minutes as read. Debbie B. seconded. (20229)

#### **VI. New Members**

Geri Remy, 7349 Worth, and Kathy Schmitz, 7347 Maple, were welcomed to our community.

#### **VII. Treasurer's Report**

Treasurer, Diana Larsson, gave an oral and written financial report through June 24, 2022. She provided both a Profit and Loss and a Balance sheet. Current assets are \$59,623.44. Total expenses are \$38,878.92.

Karole from Worth asked if we could email the statements rather than mailing statements at a cost of \$906.82. Diana replied that we do not have email addresses for all members and some members do not have email. The mailing also includes our newsletter. This can be discussed at a Board meeting. A member from 7352 Rosewood wanted to know if there were other outstanding bills not listed on the financial report. Currently, there are not.

Diana is planning to do a mailing for a dues increase after August 20. All names on a deed will be eligible to vote. The letter will have a tear-off at the bottom to return. It will include a five year budget. Mary Beth from Emerson wanted to know how much we have collected in donations on top of our \$125 dues. Diana will look into that amount.

#### **VIII. Trustee Nominations**

The following members were nominated:

One Year Term: Sid Pillars, Alan Polack, Gladys Stablein, Brooks Solterman, Sandy Warner

They all accepted.

Two Year Term:

Liz Alimpich, Darry Brosnan, Diana Larsson, John Medovarsky, Don McColman, Cynthia Hayosh Perdue, Kurt Riese

They all accepted.

Karole from Worth suggested a Meet the Candidates event. Lynn asked if she would be willing to host. She agreed. The Board will get back to her. Renee is the chairperson of the Election Committee. Lynn is assisting her. Absentee ballots will be available from Renee. Proxy ballots will be available from Lynn. On July 9, absentee voting will be available at the clubhouse from 11:00 AM – 1:00 PM. Absentee ballots are available by calling Renee at 810 357-2946. Proxies are available from Lynn 248 980-1064. **Voting will be on Saturday, July 23, from 11:00 AM– 3:00 PM.**

## **IX. Block Captains**

Lynn requested that if someone doesn't want to be a Block Captain to please email her. Welcome folders are available for new homeowners.

## **X. Parade**

Renee reported that the Children's Parade is on Sunday, July 3, at 12:00. Please line up by 11:45 at Ivy. Water, pop, chips, candy, and ice cream will be available at the clubhouse.

## **XI. Renter's Rules**

Don McColman read the Renter's Rules. Ben on Lakeview suggested that the hours for dogs be amended. When the bylaws are revised, this issue will be reviewed. Mike from Lakeview feels that the Renter's Rules are for everyone not just renters. The Board will revise the title. There was a concern about corporation rentals. Lynn shared that Worth Township is looking at limiting short term rentals. See Worth Township's website for more information. Golf carts are to be driven by a licensed driver and the speed limit is 15 mph. Dottie suggested that adults stop golf carts driven by children. A member from 7352 Rosewood said that Worth Township doesn't pay the Sheriff's department to follow up on infractions of ordinances.

## **XII. Reading of General Membership Rules**

Dottie read the Membership Rules.

## **XIII. President's Report**

Bob indicated that the community is in good shape. Bob thanked Bob Hughes for building new message boxes along Lakeview. Beaches are in good shape. They still need some cleaning and hopefully Block Captains have plans to do that. Last season, someone used the boat ramp (not from the community) and damaged 8 boards on the ramp. He thanked Tim Covert for leading the boat ramp repair and all the other volunteers that repaired the ramp and saved the community a lot of money. The bluff has not been trimmed this year because there was a motion passed that we cannot pay for any trimming on the bluff until Zenith gets stairs. We are looking at somewhere around \$25,000 to put stairs in at Zenith. There were two willow trees that were killed at the foot of Nymph and again we had a number of volunteers who cut those trees down and burned them up. Those volunteers were Kurt Riese, Kim Coburn, Steve Minnick, Tom Wilson, John, Dottie Schulte, Gladys, Debbie B., Sheila Minnick, Lynn Secord,

Liz, and Bob Hughes. The roof at the clubhouse still needs a lot of attention and there are a few nails that are popping through that need to be taken care of on the roof. At some point, the bathrooms need to be remodeled. He would like to see central air in the clubhouse. He hopes some members that are in the heating and cooling business in the community can help with the installation of ac in the clubhouse. He thanked Bob and Lori on Oak for trimming the hedges at the clubhouse. They also weeded the beds on the east side.

Our goals are to maintain the clubhouse, replace the Zenith steps, and proceed with a dues increase. We can't continue to repair and replace with the same income we've had since 1985. Yard and garbage costs 50% to 60% of our budget and every time diesel fuel goes up so do our costs. A motion was already made at the September 11, 2021 meeting to increase the dues from \$125 to \$200 and vacant lots from \$50 to \$75 yearly. Diana has put a lot of work into updating the database, so we have a good idea of how many deed owners there are in the community. At some point, we will have a mailing sent out. The Board was sued and the Board members individually by the Adkins last September. Actually, we were sued in October. A Special Board meeting was called on October 23 for the purpose of discussing the matter and at which time we were sued. Tom Wilson is going to give a synopsis of what has gone on with the suit.

#### **XIV. Legal Update/Comments Tom Wilson, Legal Representative for Lexington Heights, Inc.**

**Please visit our Google link at LexHi.org to view all legal documents regarding the lawsuit. The following is a brief overview of Mr. Wilson's presentation.**

First of all and foremost, Tom Wilson reminded the community that Ron Adkins sued Lexington Heights and all individual Board members as well as Kurt Riese. We are Lexington Heights Resort Association and we have been formed since March 4, 1937 pursuant to Public Act 137 of 1929. This is the first time Lexington Heights has ever been sued. The statute gives Lexington Heights various rights and liabilities as a Summer Resort Association and we have to comply with Open Meetings Act, FOI Act but we also get some of the rights of a municipal corporation which makes us not subject to adverse possession claims, acquiescence claims, statute of limitations don't apply. Lexington Heights is comprised primarily of Great Lakes Beach #1, which is a portion of Great Lakes Beach #1 the southerly portion is in Great Lakes Shores Inc. We are all of Great Lakes #2 and Great Lakes Beach #3. The members own the deeded lots and that's what your deeds when you see them they have various lot numbers that are listed and the Association owns the rest of the property. It is platted as parkway property. Parkway property is not "park property" in the sense that there are picnic tables and swing sets. Lex Heights used to own the roads. That years ago was turned over to the County because of the cost of maintaining them. So the parkway consists of the bluffs, areas along Mill Creek, the lake, and a trail off of Walbridge. On the south side, Lex Heights owns to the middle of Mill Creek. All these areas are open to the members of the Association. Mr. Adkins owns property on Grove Street, probably a lot of you know where it's at. It's a secluded spot and overlooks the creek. I believe he owns 7 or 8 lots. He purchased it back in 1999. His lot is encompassed by Lex Heights parkway property to the east toward the boat ramp, to the south which would be the area above the bluff of about 15 feet and the bluff begins and all the way to the center of Mill Creek, and to the west there is a substantial parkway property as well. The issue here began in the spring of 2021 when either Mr. Parker or Mr. Adkins contacted the Board indicating that Mr. Adkins desired to repair or replace a retaining wall, a wooden retaining wall that is situated at the top of his bluff. Parker needed access across the property to the east to move his equipment and materials in. The Board at that time was not aware that there was a wall there. It wasn't until they actually went out that they saw that there was a wall. Two Board members viewed it and they assumed that the wall was located on Mr. Adkins property because of the proximity of the wall to his house. It was only 10 feet back from his deck and there were no survey stakes. Mr. Adkins did not indicate otherwise. They also noticed that there were other structures in close proximity to the area. There was a deck right off the back of the house, a shed, stairs going down, and some brick retaining walls. The

Board because of the proximity always assumed that was on Mr. Adkins' property. (Tom read the letter written to Parker giving Parker access to Adkins' property through Lex Heights property to the east.) Nothing further happened after that letter went out in May of 2021. Then the week of September 7, 2021, Kurt Riese, now a Board member here, noticed that Mr. Parker had moved his large excavator onto the property to the east of the Adkins, which would be parkway property. Mr. Riese also noticed long metal sheets or pilings (16 feet long). Mr. Riese saw Mr. Parker at the boat ramp. Mr. Adkins was not there. So Mr. Riese walked down to Mr. Parker and asked what was going on. After the two conversed for awhile, Mr. Parker advised that there was going to be placed a 64 foot long retaining wall with 16 foot sheets placed, not at the top of the bluff but at the bottom of the bluff. As it turns out, Mr. Adkins initially made applications to have this retaining wall placed in the middle of the creek and the DNR said no. It has to be at least 5 feet back from the water's edge. Mr. Riese was very concerned about this. He knew this was going to change the entire complexion of the bluff. He asked if Lexington Heights had given permission. Mr. Parker told Mr. Riese that Mr. Adkins said that he had permission. However, Mr. Parker had not seen the letter yet. So they decided to walk down to Mr. Adkins' house together and Mr. Parker asked to see the letter from the Association. After reading the letter, Mr. Riese said that doesn't give Mr. Adkins permission to put that on there. It's merely access to do the work. Mr. Parker agreed and told Mr. Adkins he needed to get this matter straightened out. Mr. Riese also told Mr. Adkins that we had a General Membership meeting scheduled for September 11. He advised Mr. Adkins to appear at that General Membership meeting and he should go to the membership and make the presentation. Mr. Riese knew that only the membership has the authority to convey any real estate. Mr. Riese then contacted Mr. Alimpich, the President, and asked him if he was aware of the scope of the project that was being done and if he gave Mr. Adkins permission to construct that project on LH property and at the bottom of the bluff and not at the top of the bluff where the small retaining wall was supposed to be repaired or replaced. Mr. Alimpich said he only gave permission to access it from the east. He then contacted Mr. Adkins and Parker and said to stop construction of that project on the LH's property and you are certainly welcome to go ahead and put it on Mr. Adkins property, but you have to come before the General membership. So that was ceased. Mr. Alimpich indicated that Mr. Adkins should appear at the Sept. 11 meeting and make a presentation. He also requested that he should do a survey. Mr. Adkins did show up at the Sept. 11 meeting, but he never said a word and he did not do a presentation. Now we're in a dilemma with we don't have another General membership meeting until next year. Four days later Sept. 15, the Board received a letter from Adkins' attorney. Please see our website to read. (LexHi.org Google link) Then another letter is received on October 5, 2021 from Adkins attorney. Please see our website to read. Obviously, these letters got the Board's attention so they called a Special Meeting in October to try to resolve this and avoid litigation. The moment the meeting opened Mr. Adkins attorney stood up and walked up to each one of the Board members and personally served each one with a lawsuit. Not only naming LH as a defendant and Kurt Riese as a defendant and Bob Alimpich as a defendant and each and everyone of the Board members for God knows what they did. This is nothing but bullying and harassment and intent to intimidate. There was no attempt to resolve this thing at all. So the Board had no choice but to defend this matter. Initially, the lawsuit really didn't make a whole lot of sense. So he ended up filing an amended complaint and it was a 6 count amended complaint that clarified it. The counts included adverse possession, acquiescence, torturous interference with a contractual relationship, declaratory judgment, injunctive relief, and an action to quiet title. Adkins was claiming that he owns all the property that he has been occupying to the east, west, and south. Adkins again refused to obtain a survey. So LH had to hire Milletics to do a survey. This was done after the lawsuit was started. Milletics came out and did the survey and it was found out that Adkins has been encroaching on LH property for years. The rear portion of his deck is actually 2 feet on LH property and the shed is almost entirely on LH property. The steps to the creek are on LH's property and the wooden retaining wall is entirely on LH property. (Please see our Google link on our website to see the survey.) In his complaint, Mr. Adkins has indicated that he has been doing this since 1999. Clearly with the intent, thinking that adverse possession applied and that he knew exactly what he was doing. Through discovery, we were able to get ahold of Mr. Parker's contract. We had never seen Mr. Parker's contract in the past. What was there was an

existing retaining wall. It's a small wooden structure. It doesn't extend more than a foot above the top of the ground. It's located on the top of the bluff and the Parker contract was a completely breed of cat all together. This called for 16 foot sheetings that he was proposing to drive in at the bottom of the bluff. It was going to be driven in at 8 feet below grade. We read through this contract with a fine-tooth comb. It was going to leave 8 feet above grade. That is going to completely change the whole outlook/appearance of the bluff. It's 62 feet wide with an eight-foot-high wall constructed at the bottom of the bluff. Mr. Parker advised that when he was first contacted by Mr. Adkins, he wanted the wall to be built in the middle of the creek. However, he could not do that. When I spoke with Mr. Parker, the contract clearly required that Mr. Adkins obtain written permission from LH to install that structure on LH's property. Adkins never did that. That May 22 letter that basically said that you can access our property. Nowhere in there does it say that you can put that on LH's property. It also says that it's to be restored to the condition it was in. When we went to court last Tuesday, the judge said that there is no way that this letter is permission to construct that on LH's property. The other thing this contract called for was the removal of all brush and trees in the way. As you know, any cutting on the bluff requires permission from the Board which he never obtained. In his complaint, he said he spent \$6,200 clear cutting vegetation and trees on our property. I have spoken with Mr. Parker on several occasions, and he has said that there is no reason that the retaining wall needs to be placed at the bottom of the bluff. He said there is plenty of room behind Mr. Adkins' property at the top of the bluff to install that work. He suggested that it be done in a different fashion using I beams instead of driving steel in. We made an offer to Mr. Adkins' attorney on June 17. Let me remind you, this is something that is subject to the approval of the General membership. It says I have been authorized to extend to your client the following offer to resolve this matter. The existing structures stay as is (decks, stairs, shed) and Mr. Adkins is granted an easement of appurtenant for ingress and egress to the existing structures for use and maintain them. The structures may be repaired, but if removed or destroyed they may not be replaced without further written permission from LH. The structures may not be altered in any fashion so as to increase the size. Mr. Adkins is solely responsible for all maintenance and repairs and any real or personal property taxes assessed on the same. He also agrees to hold LH harmless and indemnify from any liability arising out of the structures. 2. Mr. Adkins can install a retaining wall on LH's property to the south of his property. However, it shall not extend more than five feet south of the Milletic's survey that LH's had performed. Same hold harmless and indemnify clauses as in #1 above. 3. Mr. Adkins is not to further encroach on LH's property in any direction for any reason without the express written permission of LH. 4. Mr. Adkins pays all LH's attorney fees incurred as a result of this litigation. 5. Upon entering this agreement, the parties will mutually dismiss their claims and counter claims against each other. 6. This agreement is contingent upon approval by a vote of the General Membership as required by statute and by-laws. 7. The settlement does not resolve any claims against and counter claims made against and by Kurt Riese. The Board has no authority over Mr. Riese as he has been sued in his individual capacity. Please discuss this matter with your client and advise at your earliest convenience as attorney fees are continuing to mount with the various motions that are pending. Mr. Adkins rejected that offer. Last week we went to court and he still is insisting that the retaining wall be placed at the bottom of the bluff. Mr. Parker has said that there is no reason why this can't be done at the top. Tuesday, we had competing motions to dismiss. Adkins brought a motion to his attorney to have our counter complaint dismissed. All of his motions were denied. The judge dismissed his case against Kurt Riese. The judge ruled and said that he did not find any wrongful interference with Mr. Parker's contract by Kurt Riese. The judge further said that he was merely looking out for LH and that it even turns out that Mr. Riese was correct. That this was being done on LH's property and dismissed the lawsuit against Mr. Riese. He said that the May 22 letter from the Board requesting access across the property was not permission to install that wall on LH's property. So that has been ruled. The judge unequivocally said NO. That letter does not say that they can construct that on LH's property. The judge also dismissed the claims against the individual Board members. To Mr. Adkins' credit at that point, he was not pursuing a claim against the Board. His focus was on Kurt Riese, but when he amended his complaint all he did was delete their names from the caption and that is not how you get someone dismissed from a lawsuit. He also indicated that he did not believe that this was an acquiescence case. This is an

adverse possession case and that's what the judge ruled. That we're proceeding on it. The only reason he didn't dismiss it pursuant to the statute is because LH as a Summer Resort Association is not subject to adverse possession or acquiescence. However, there was an amendment made to the statute some time ago. It's a question of how long this adverse possession claim has been going on. That's an issue to be decided somewhere down the road, but what he did say was that adverse possession clearly involves only the property that you possess. It doesn't extend your boundaries. It doesn't increase the size of what you're possessing. The big thing here is putting that behemoth structure at the bottom of the creek. That's what we don't want. We're continuing to negotiate on this case. We've got case evaluation scheduled in July. I just received this week a counter offer from Mr. Adkins' attorney. I have not had an opportunity to discuss this with them. They have had another survey done. This case should never had been filed in the first place. This should have been negotiated with the Board. Should have been negotiated with the General Membership. This was done as a hammer. Sending these letters demanding these outrageous sums of money and when you're having a Special Meeting to try to resolve this thing serving them with a lawsuit. Common sense tells you exactly what that is...intimidation, bullying, and harassment. The Board had to defend it. So when and if we get an offer that is acceptable because the General Membership is the only one that has the power to approve it. The Board can tentatively approve something, but it will have to come before the General Membership for a vote as to whether or not to accept the settlement. That is the condensed version of this lawsuit.

Mr. Wilson then answered some questions from the audience.

#### **XV. Community Concerns/Comments:**

Ben on Lakeview wanted to know about liability if Mr. Adkins' house falls in. Mr. Wilson said we do not have liability because of an Act of God and a lot of this is because Mr. Adkins clear cutting it. If he wants that retaining wall up there, he can put it up there and that will stop his erosion. Do it where it needs to be done. Don't do it at the bottom.

Marie on Laurel wanted to know if the retaining wall is put at the bottom of the bluff and the creek goes up and down and the water pushes against Huronia Heights and then causes erosion on their side can they sue us. Mr. Wilson replied that you cannot alter the course of a navigable stream and to the extent that you do and it causes erosion you are potentially liable for the damage you have caused. So you are correct.

A member on Rosewood was curious about the structures and why the Board was surprised about these structures. (deck, steps, shed) Mr. Wilson replied that he doesn't know that we were surprised. We were surprised that they were there because there were no survey stakes and they were in such proximity to his house. There was a question about an inspection. Mr. Wilson replied how can you inspect it without a survey. Then there was a discussion of the natural parkway.

A member from 7355 Walbridge wants to know if we give him what he wants are we then going to give all those other houses along there the same? Mr. Wilson replied that it's a slippery slope.

A member on Emerson said that Adkins is only trying to protect his property.

Ron from Grove discussed a four foot wall above the ground that is on the website. It's five or six feet from the original wall. He then discussed the danger of pounding anything three feet behind his deck. Mr. Adkins said that Parker put in his contract that he will not fix anything that happens to the house. Mr. Riese asked why Adkins won't put in a poured wall? Then there was a discussion regarding when Gladys and Steve visited Mr. Adkins property originally.

A member from 7320 Grove accused Adkins of clear cutting everything and he needs to be stopped.

Mike from Lakeview thinks both the Board and the audience would like an orderly meeting. You may not be on Ron's side or the Board's side, but you'd like an orderly meeting. He then wanted to know the gentleman's name and address and if he's a member of this association. Pat Wright from 7320 Grove was speaking for his mother, who owns the property on Grove. Mr. Wilson said that due to the Open Meetings Act, he could speak.

Joey from Ivy said to allow the lawsuit to run its course in the court system and let the court decide.

Reggie from 7321 Rosewood wants to know about the land lease agreement is for perpetuity and/or is it transferable to new owners? Mr. Wilson replied that it's not a land lease. It's an easement appurtenant, which means it runs with the land in perpetuity. The only time it would cease is if the structure was torn down. It could not be replaced.

Ron from 7406 Grove made a motion to purchase the property for \$5,000. Reggie seconded the motion. Discussion of motion.

A member from 7325 Rosewood wanted to know what about the legal fees and what that means to us. Mr. Wilson said that means LH is potentially on the hook for all of our attorney fees, and the Board's attorney fees. Kurt Riese's fees are out of pocket for him because he was not on the Board at the time. We have been involved in litigation for a period of time and there has been a ton of work. If you've been following along on the "real" LH's website, the actual pleadings, and that sort of thing. Right now I'd say the attorney fees are in the neighborhood of \$13,000. That's why all the offers we make and are going to make are contingent on him paying all those attorney fees. If there's going to be a sale of a foot of that property to him, that sale is going to include our attorney fees. This was a ridiculous lawsuit and we should not have to pay for it.

Tom D. 6974 Walbridge wanted to know how a judge would view the motion and how it would effect the pending lawsuit. Mr. Wilson replied that it would certainly make it a total mess in the court.

Debbie B. 7086 Lakeview said that the Board made a good offer to Adkins and now let the court have the final say. She feels that he doesn't have any right to a motion because it is in litigation.

There was a discussion about tabling the Motion.

Mike from Lakeview wanted to know the definition of end around vs. settling out of court. Mr. Wilson replied settlements out of court when you're involved in litigation goes through the attorneys not someone coming to a separate Board that doesn't have the authority over the litigation and coming in here and trying to interfere with it. That's the end around part of it. It's in the court if we're going to settle it. I would settle it with the Board, Mr. Adkins and his attorney. We don't come here and try to hammer out a settlement.

There was a discussion about amending the Motion.

Diana, Treasurer, said we don't have enough information to vote on this.

Bob, President, reminded everyone that there was still a Motion on the floor.

Bob H. 7355 Walbridge wanted to know how can we attempt to sell anything without all the members. If we can't increase our dues without every single member to vote on it, how can we make a decision like that.

Jim on Ivy said our attorney fees are about \$13,000 right now. He wanted to know if our insurance covers loss and litigation. Mr. Wilson that we do not. The Board turned it into the

insurance company and they said we do not cover this type of loss. That's why we didn't get our answer in for two months after we were served. Mr. Perna said when he was on the Board that there was an insurance policy covering such litigation. Did that policy change? Mr. Wilson said no. We're talking errors and omissions – the Board did nothing wrong. No coverage for this type of adverse possession.

Bob A., President, asked if there was any more discussion of the Motion.

John 7080 Lakeview wanted to know how do you make it a parcel to sell it. Mr. Wilson replied that you'd have to do a survey and a meets and balance description(?) as opposed to lots. It can be done.

Jim 7376 Walbridge wanted to amend the Motion. Jim was told that he couldn't amend a Motion that he did not make.

Ron 7406 Grove wanted to know how long before he can bring it (Motion) back. Bob A. suggested that we table this until the next General Membership meeting (August 20). Mr. Adkins said that he would wait until the end of August. Lynn asked if he's withdrawing his Motion. Mr. Wilson replied that he's (Adkins) is postponing the Motion.

## **XVI. Adjournment**

Bob A. motioned to adjourn at 12:25. The General Membership motioned to adjourn. Seconded by all. (202210)

**July 9 Board Mtg. @ 9:00 AM Absentee Voting 11 – 1:00 PM**

**July 23 Board Mtg. @ 9:00 AM Board Elections 11:00 – 3:00 Euchre 7:00 PM**

**August 6 Board Mtg. @ 9:00 AM**

**August 20 @ 10:00 AM General Meeting Euchre Night 7:00 PM**

**August 27 Corn Roast @ 1 – 4:00 PM**

**September 2 @ 6:00 PM Mystery Night**

**September 10 @ 9:00 AM Board Meeting**

**September 24 @ 9:00 AM Board Mtg. Spaghetti Dinner 6:00 PM**

**October 1 Chili Fest 6:00 PM**





