

Lexington Heights Inc.

General Meeting

August 20, 2022

I. Call to Order

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

II. Trustees Present

Liz Alimpich, Bob Alimpich, Renee Jobbit, Don McColman, John Medovarsky, Lynn Secord, Gladys Stablein, and Dottie Schulte were present. Diana Larsson was listening on a phone.

III. Invocation

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

IV. Pledge

Bob Alimpich led the community in saying the Pledge.

V. Reading of the Annual Minutes of June 25, 2022

The community silently read the Minutes. Ben motioned to accept the Minutes. Sandy seconded. All in favor. Motion passed. (202235)

VI. Introduction of Board Members

The Board members were introduced to the community.

Bob Alimpich, President, Gladys Stablein, Vice-President, Lynn Secord, Secretary/Webmaster, Diana Larsson, Treasurer, Liz Alimpich, Trustee, Renee Jobbit, Trustee, Don McColman, Trustee, John Medovarsky, Trustee, Dottie Schulte, Trustee

VII. Treasurer's Report

Diana presented copies of Profit and Loss statement and a Balance sheet. If there are any questions regarding the Treasurer's report, please email Diana at Lexingtonheightsinc@gmail.com.

VIII. Committee Reports

- **Bluff/Parkway** – Dottie thanked Maria and all the volunteers for helping at Mill Creek. Thank you to everyone involved. Dottie reminded everyone about how important the vegetation on the bluff is to stop erosion. If you have any questions about the bluff, please talk to Dottie or Liz. (Bluff Committee) The Bluff Committee hopes to put information on the website concerning the maintenance of the bluff. If you're interested in trimming on the bluff, please email us.

- **Beaches/Jetties/Boat Ramp** – Don reported that the beaches look good. He did some trimming on some of the stairways to the beach.
- **Clubhouse/Playground** – Gladys thanked Julie, Debbie B., and Bob for painting the floors and installing new toilets at the clubhouse. A big thanks to Heidi Brosnan, Darry B., Kurt Riese, John McCarol, Kim Coburn, and Gladys for power washing the clubhouse.
- **By-Laws** – The Committee Gladys, Liz, and Tom Doetsch has met, and they are making progress. At the Annual Meeting in June, the community will vote on any changes to the by-laws. The changes will be presented to the Board first and then voted on by the membership.
- **Election** – Renee gave an election report. We had a great turn out. Thanks to everyone that helped. We had 244 total votes. There were 55 absentee votes, and 58 proxies. We had 7 hours for in person voting. Renee's phone number was available to anyone who wanted to absentee vote for three weekends in July.

IX. President's Report

The Board has worked very hard with our attorney, Tom Wilson, to obtain a settlement to the lawsuit. Bob is hoping that after the vote on the settlement and we can finally come together as a community again and begin to enjoy our community again. Thanks to Bob Hughes for making the message boxes along Lakeview. Thanks to Sandy Warner for spearheading new less obtrusive lighting along Lakeview. Thanks to Mark and Julie for meeting with a heating and cooling contractor about installing a heat pump and central air in at the clubhouse. Thanks again to Maria and her husband, Rob, and Michele Hirschfield for their work on the Mill Creek clean up. They hope to make it an annual event. We are getting more people to volunteer and that can only be a good thing.

Don read the Community Rules.

Bob read a letter from Sandy Czech on Nymph. She was accosted on the beach by two large dogs and verbally attacked by a man on the beach on August 13. She expressed her hope for people to be civil to one another in our community.

Update on the Lawsuit

At the Annual Meeting, Tom Wilson gave an extensive review of the lawsuit. He reminded everyone that Lexington Heights was sued by Ron Adkins. Since that time, we have had significant action on the lawsuit. Mr. Adkins owns seven lots on Grove Road and is surrounded by LexHi property on the south, east, and west. Mr. Wilson discussed how the lawsuit started and reviewed some of the important points. **Please see the Annual Minutes from June 25, 2022 for a complete overview of the lawsuit or the Google link on our website to see all lawsuit documents.** The Board went into Executive session a few times to discuss the negotiations which they are allowed to do. If you tell everyone out in public what your position is, then you lose your strategy. Three things the Board made very clear to Mr. Adkins were that he couldn't build the wall at the bottom of the bluff, there would be no sale of the bluff property, and pay all of Lexington Heights attorney fees. We have now negotiated a settlement that is acceptable to the Board. The statute (PA 137 of 1929) requires that any transfer of any real estate has to be authorized by the general membership. The Board can not transfer or sell property to Mr. Adkins. Only the General membership can vote and transfer an interest in property. That portion of this settlement proposal involves an easement appurtenant.

That is a transfer of title to Mr. Adkins, but not a complete transfer. It is a transfer of a property interest to Mr. Adkins. That requires general membership approval. This was just hammered out on Friday, June 19, 2022 at 4:00. Here is a summary of the proposal. The settlement proposal is as follows: Mr. Adkins and his wife will be granted an easement appurtenant. An easement appurtenant runs with the land. So if Mr. Adkins sells the house or if he passes, the easement would continue. The easement only applies to the existing encroachments that are there right now. The deck, stairs, shed, and retaining wall can all remain. He can use and maintain those items. If one of the items is removed or destroyed, that easement is over. He also can not increase the size of the encroachment. Also, Mr. Adkins agrees to hold Lex Heights harmless and indemnify it from any liability that may arise out of these structures. These are his structures. So this is something that he's responsible for and he's assuming that liability and maintaining insurance etc. on that. He can install a retaining wall, but it shall not be any longer than his existing wall. It has to be placed in the exact same location as his existing retaining wall at the top of the bluff or closer to his house. It can not extend any further south. His contractor has indicated that he can do that up there. Even though that existing retaining wall does extend some 12 to 15 feet on to Lex Heights property, Lex Heights is willing to allow him to keep that retaining wall where it is. It is failing so he is going to put a new one in and that will suffice at the top. Mr. Adkins agrees that he will not encroach anymore on Lex Height's property without the written permission from the Board giving him permission. Mr. Adkins is going to pay all of Lex Heights attorney fees. So there is not any cost to Lex Heights. It has gotten expensive. Right now Lex Heights attorney fees are \$20,000 and he's going to be paying that. No out of pocket expenses to Lexington Heights. Both sides will dismiss all of their claims in the pending lawsuit and the case will be dismissed with prejudice. We have gone full circle on this. This is pretty much what the Board was going to propose a year ago. At this point, we need approval from the membership authorizing the Board to grant Mr. Adkins an easement appurtenant. The rest of the lawsuit the Board has the authority to enter into the terms including no more encroachment and the placement of this or that. The easement itself must come from a motion from the floor. In order for the proposed settlement to be finalized, we're going to need a motion from the general membership to authorize the Board to grant Mr. Adkins an easement. The Board is in favor of this proposal. Mr. Wilson then answered questions about the lawsuit.

- Julie on Satinwood wanted to know if the whole membership should be notified before we made a motion and vote. Mr. Wilson replied that the statute reads that at any annual or special meetings of the general membership a motion can be made authorizing the Board to convey interest in real estate by a majority of the vote of those in attendance at that meeting. It's different than the dues. The reason we need to get it done today is because our next general membership meeting isn't until next June.
- Sue on Ivy read Act 137 and it is exactly what Tom said. Sue wanted to know if the easement applies to the retaining wall. Yes, the easement does apply to the retaining wall.
- Ben on Lakeview criticized the Board because he didn't know we were voting today and he would have brought proxies. He criticized how the Board handled the lawsuit.
- Reid on Walbridge made the motion: **I move to authorize the Board to grant Ronald and Kathi Adkins an easement appurtenant to his existing encroaching structures on Lexington Heights property pursuant to the terms Mr. Wilson described as part of the proposed settlement agreement.** Sandy seconded the motion. (202236) Motion passed.
- **Discussion of the motion.**

- There was a discussion about the use of proxies and how some people had proxies. Bob Alimpich said that anyone can bring proxies to any meeting where a motion might be made.
- Jim from Ivy wanted to know how people brought proxies to the meeting without knowing the settlement. Mr. Wilson replied that people give proxies for these general membership meetings and the statute specifically authorizes that you can grant a proxy to vote for you on anything that comes up. The Board doesn't know what is going to be raised today by way of a motion. Mr. Wilson has had proxies on other general membership meetings because someone wants to be heard and they are saying I want you to vote my vote on how you feel best on the issues that come up.
- Maria on Laurel reminded everyone that at the last general membership meeting that he (Adkins) made a motion to purchase the land. A lot of people couldn't come today, so people put in proxies for and against. **There was also a notice on the website that there might be a vote at the General Membership meeting. (Lexhi.org)** So if you were at the Meeting in June you know, he wanted the motion to be made again at the August meeting regarding purchasing the land and you'd know there were going to be proxies.
- Kurt Riese reminded the membership that proxies are nothing new. If you would read the statute before you come to these meetings, then you would be well versed on how the system works.
- Maggie on Lakeview agrees about proxies and the statute. Unfortunately, the last couple of elections when we have been asking about proxies the Board itself states they have not been using proxies in the past so that goes against what Mr. Wilson is saying. So this current Board is confused about proxies. Gladys added that this has been changed. Mr. Wilson said proxies are allowed.
- Kevin on Ivy wanted to make a motion against the use of proxies. There was already a motion on the floor.
- Sue on Ivy wants to amend the motion to include the new retaining wall. Mr. Wilson said the settlement agreement includes specifically in the easement is the existing retaining wall. It is to be in the same place or closer to the house.
- Amanda on Lakeview wants to know how to avoid this from happening again? Mr. Wilson said because the statute prohibits it and Mr. Adkins was in what the judge called a limbo/grey area because the statute was enacted in 2016. Going forward from 2016, you can not adversely possess. That statute is in black and white and clearly prohibits adverse possession. Then there was a question about if that would be a criminal infraction if that would occur again. Mr. Wilson said it could be a trespass, but you'd have to approach the prosecutor. Only the prosecutor can commence criminal acts.
- Reggie on Rosewood wanted to know the terms on the payment of the legal fees. It will be paid within 30 days (lump sum). If this passes, will it encumber my free traverse along the creek on that side. Mr. Wilson said absolutely not. It is still Lex Heights property.
- Reggie expressed concern that the Board is acting under duress. Reggie feels that Adkins has bought that property for \$25,000 and he feels the property is worth more than \$25,000.

- Gates on Juniper wanted to know if the notes that Mr. Wilson skipped over would be on the website. The notes that Mr. Wilson was using were for the presentation. A complete summary of the lawsuit is in the Annual minutes of June 25, 2022 on our website. Printed copies were also available at the General meeting.
- Heidi on Nymph wanted to know about the \$6,200 on the trees that he cut down. Mr. Wilson said that he's been involved in tree litigation before and it gets quite costly.
- **All in favor of granting the easement: 60 Yes (+2 proxies) Total 62**
- **All opposed: 12 No (+ 1 proxy) 13**
- Dottie asked the community to look within themselves and think about their language and behavior. She asked for respect.
- A member expressed a concern over a YES/No vote. The discussion of the motion was over.
- Sandy Warner on Lakeview read a letter she wrote criticizing the Board. She accused the Board of intimidation, unresponsiveness, and unkindness during the Adkins' lawsuit. If you would like a copy of her letter, please email Lexingtonheightsinc@gmail.com and I'll forward a copy to you. If you'd like a paper copy, please let me know.
- Reggie on Rosewood challenged the vote.
- Kevin on Ivy wanted to know about by-law changes. All proposed by-law changes will be posted for the community to read.
- Debbie B. on Lakeview is concerned with how divided our community is.

X. Adjournment Dottie motioned to adjourn. Liz seconded. All in favor. Motion passed. (202237)

August 27 Corn Roast @ 1 – 4:00 PM

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

Please note: All Executive session notes will be posted as soon as the final settlement agreement is received. I will post the settlement agreement as soon as I receive a copy.

