

**Bay Quarter Shores Association
Monthly Meeting Minutes
January 13, 2007**

Meeting was called to order at 9:00 AM, John Collier presiding.

Board members present: Fraser Getgood, Mike Silagyi, Michael Goodrich-Stuart, Frank Stewart, Gary Morris, Ruth Franck, Jennifer Troy-Black. Others present: Dick Lee, Debbie Anderson, Gay Collier, Roger Guy, Bob Farina, Scott McCay, Curtis Black, Jim Morhard, Kay Morhard and Joyce Shelton.

Meetings minutes from November 11, 2006, were approved by unanimous vote.

Treasurer's report was approved by a unanimous vote. Current assets \$247,829.31.

Old Business

1. Speed limit signs were discussed. Frank Stewart has contacted VDOT a number of times regarding the need to put up reduced speed limit signs (reflecting our status as a golf cart community) without success. He has offered to install the signs, but VDOT has said that they will get to it. He will now contact VDOT in Richmond to see if the process can be expedited.
2. A second item, to discuss dues payments by certain individuals, was briefly postponed until later in the meeting to permit those individuals to appear. (Continued below.)

New Business

1. Mike Silagyi, VP Administration, discussed the situation surrounding the clubhouse septic field. He synopsised the current information, noting that the most recent problems with the septic began at the time of Ernesto when the field failed to absorb effluents. A contractor (Hollowell) evaluated the site on November 30th and dug a number of test holes – which, in the area of the current drain field, filled with water. Hollowell's assessment, which did not arrive until January 11, 2007, is that the clubhouse sits on a "clay pot" which does not permit good percolation of water. The septic field was put in place in 1966 using cast iron pipe. Several years ago, a contractor snaked out the drain lines, but noted that he felt the system could fail at any time. Rust, cave-ins, etc., have contributed to the problems, which culminated in the closure of clubhouse restrooms for a period of time in November and December. A variety of possible sites for a new septic field were outlined, but a 75-foot buffer must be maintained between a drain field and any body of water, and soil conditions are not ideal for drainage and percolation. The best area identified by Hollowell is in the copse of trees near the current boat parking area. This would require running pipes under the road to the drain field (a potential problem). Further, Mike said that the report indicated just one feasible solution to the problem: a mound-type system in that location. Another item he mentioned was a tank system which would require regular pumping. (A copy of the full report, provided by Mike Silagyi, is attached to these minutes.) Based on the outcome of Hollowell's study,

Mike recommends getting a professional soil engineer and the Three Rivers Health District involved. John Collier mentioned that a tank system reminds him of the sewer system which was not supported by members when it was discussed several years ago. He went on to comment that he feels realistically something of that sort will have to be reconsidered in the next 20 years and that we should perhaps reexamine that option. Mike mentioned the potential costs of the two types of peat mound systems described in the Hollowell report start at \$16,000 for the Ecoflo system and \$20,000 for the Puraflo system. Other potential costs and problems may also exist, including tank removal, costs of installing lines between the clubhouse and a new drain field, backup systems for electric pumps (in the event of power failures) and others. Roger Guy said that the area considered for a mound system experienced tidal surge during Ernesto, and that a protective wall of some sort might be required to safeguard the system if it is installed there. After some more discussion, a motion to authorize Mike Silagyi to consult with the Three Rivers Health District and a professional engineer was passed unanimously. Mike will undertake that task in the near future. Mike was authorized to spend \$1,000 for additional professional consultation.

After that discussion, Mike offered the following report:

Clubhouse

The clubhouse has been used for two senior pot luck dinners.

Sears repaired the warmer section of the stove in the kitchen.

All of the restrooms were closed before Thanksgiving because the toilets would not flush and sinks would not drain. The interior toilets were reopened December 12, 2006. The clubhouse grounds are saturated.

Vandalism

Two incidents of vandalism were reported to the sheriff's department.

- The golf cart and animals on leash signs located on Cod Creek Drive were removed sometime between December 16 and 18, 2006. Frank and Judy Stewart saw the signs at the intersection of Walnut Point Road and Clarktowne Road on the evening of December 22, 2006. The signs were reinstalled on January 2, 2007.
 - The port-o-potty was pushed over with a vehicle around December 31, 2006.
2. Ruth Franck brought up the acoustics in the clubhouse and noted three potential ways to mitigate sound: ceiling, wall and floor coverings. She feels that the best possible solution would be wall hangings of some sort, and offered to study the issue at greater length and come back to the board with a plan in February. Some discussion about priorities took place, since board members are concerned about the potential cost of the septic system

repair/replacement and the non-budgeted cost of cleaning up after Ernesto. Fraser Getgood noted that conducting a study of the acoustics does not require immediate expenditures and the board supported that opinion. John Collier said that other expense items (picnic table replacement) can also be tabled or postponed if needed. Future budgets can be adjusted as needed to accommodate plans and contingencies based on emergency situations. Ruth will proceed with the study.

3. Fraser Getgood reported on a number of projects approved for association members, including an addition on H-17/18; house/pier on B48, sheds on a couple of other lots. Fraser also initiated a discussion concerning an association member's application to build a garage on lot T-59 and the perceived ambiguity of the covenants concerning garages and other outbuildings with regard to setbacks and square footage. He indicated that as more people become full-time residents who want larger outbuildings, the covenants may not fit current needs/desires. There is some question as to the interpretation of the covenants vis-à-vis square footage and setbacks for outbuildings (sheds and garages). John Collier said that a motion of clarification on the covenants could be adopted by the board in the future. One possibility might be limiting outbuildings to a specified percentage of the size of the house. Other considerations may be better defining what constitutes sheds, garages, workshops and other outbuildings. A motion to approve a waiver for the T-59 garage setbacks/square footage was passed unanimously.
4. Frank Stewart gave a report on maintenance including the following items:
 - Electric outlets on the back porch were repaired at a cost of \$150. (Roger Guy said that the light switches in the building feel warm, and suggested they be examined by a contractor. Frank said these were already upgraded once but that he would have them checked when possible.)
 - An estimate to repair and upgrade the pool electrical system came in at \$1,400, and includes replacing wiring, panels and pump. The board approved this expenditure.
 - Wittstat Lane grading will be postponed until spring to permit road conditions to dry out before work commences.
 - Any vandalism should be reported to the sheriff, which will hopefully increase patrols in the area.
 - Frank suggested an increase in the handyman's hourly wage be considered. Some discussion took place surrounding the need to include wage increases in the future in budget planning. Frank said a raise for this hourly wage was considered in his proposal for the budget, but not listed as a specific line item. Gary Morris suggested this be spelled out more directly in the future. A decision was reached on this item.
 - Mike Silagyi worked to complete sheet rock installation in the barn.
 - Storm cleanup from Ernesto is complete. Frank complimented the contractor, Benton Hayden Excavating.
 - Frank is awaiting a call to pick up the grill, which was discussed in a previous meeting.

Old Business

2. (continued from above) Three people who wished to address the board now being in attendance, John Collier first mentioned that none of those currently on the board had been serving on the body when the covenant change to be discussed had been proposed and approved. He then opened the floor to Jim Morhard, son of Kay Morhard, representing his mother and Joyce Shelton. Mr. Morhard thanked the board for the delay in opening the discussion, and for their service to the community. He brought up the issue of increased membership dues being charged to Mrs. Morhard and Joyce Shelton, and offered several points in support of his wish that the bills be reduced:

A. Mr. Morhard presented a document labeled 509-485, which indicates a change in the way property owners' dues would be assessed. He quoted Bill Marr, an attorney from the POAVA, as having said amendments to the covenants are not consistent with earlier drafts of the covenants.

B. A BQS newsletter issued in March 2004 says there is "no grandfather clause" concerning association dues, but earlier newsletters say otherwise.

C. According to Mr. Morhard, suggested covenant revisions published 3/27/2001 do not clearly spell out that section 16 was to be changed. (Board members contested this statement, since section 16 was underlined in the document provided to the board by Mr. Morhard, as were other sections being considered for revision.)

D. No specific vote tally was given for the adoption of 509-485. (He indicated that a two-thirds majority was required to adopt that revision, which was recorded after the vote took place.)

E. The April 2004 newsletter discussed the fee adjustment was to take place that fall; however, the actual change in billing was delayed until fall 2006. (Board members explained this delay was caused by a lack of reliable land ownership records to permit accurate billing from being implemented earlier, in part due to the loss of records resulting from the clubhouse fire.)

F. Mr. Morhard concluded by saying that the individuals protesting the change had relied on status quo for over 40 years; that many of the lots they owned do not or did not perk; that yearly return on their ownership had been of little significance to the families.

Morhard then summarized his statements and asked the board to consider revising the bills.

Mike Silagyi asked whether the families pay property taxes on the lots and, if so, do they get a discount for having multiple lots. Mr. Morhard replied that taxes are paid on each lot.

John Collier asked where the 3/27/2001 document came from. Kay Morhard said they had been mailed to all association members. John asked why this document had been presented, since the underlined section constitutes notification of a potential change to the covenants (and this would seem to undermine the claim that they were unaware of the proposed changes). Jim Morhard said the underlined section was not perceived as indicating a change. Roger Guy, speaking from the audience, said that some objections were raised at the time of the proposed change. John Collier said that after the public discussion mentioned by Guy took place, a vote was taken and the covenant revisions were passed. He went on to

say that in two subsequent revisions and recordings of the covenants, the section changing assessments were recorded again in their current state. He said that over time many changes have been made in the covenants; once changes are approved by a two-thirds vote, they take effect. The delay in implementation for the assessment changes allowed any protests to be made, Collier explained. He explained that the reasons for the delay were issues with the accounting process and with determining lot ownership after the fire. Since Mrs. Morhard and Mrs. Shelton raised questions about the bills issued in late 2006, the board has frozen the issue without penalty or interest pending today's discussion. Collier said he felt that a covenant change to assess fees more fairly had been made at the community's pleasure, and that he feels it is the responsibility of the board to enforce that change. Joyce Shelton said there had been extensive discussion on the topic in 1993 (when the change had not been made) but that in 2001 she knew nothing about the change being considered. She said she feels there was not detailed discussion at that time. Fraser said a notice had clearly been sent out at that time indicating changes being considered. (That notice was the one provided to the board by Mr. Morhard.) John Collier asked whether the section in question was or was not underlined. Jim Morhard reiterated his contention that the ballots for the vote had not been recorded, just the change to the covenants. John Collier said the covenants had been recorded but not the ballots. Fraser said the ballots had been burned in the clubhouse fire. Gary Morris asked whether the contention of Mrs. Morhard and Mrs. Shelton was that process was not being followed or that the process was unjust. Joyce Shelton said that she feels the vote was not just and that the provision was she would pay no higher dues than those charged when she and her husband initially bought their lots. Gary said that costs have risen and that revenue increases required to fund the association must be fairly assessed. Joyce Shelton said that she feels the board can, if it acts against her request, pass whatever it wants in the future, too. Mike Silagyi said that covenant changes are not made by the board, but by the community as a whole. Joyce Shelton said that if the board's objective in changing the billing is merely to raise money, there are lots of other ways to do it. Mike Silagyi asked her if the increased dues present a burden, and she responded it was to both her and to Mrs. Morhard. John Collier said that the board's responsibility is to be fair and equitable to the community as a whole, and to enforce the covenants in such a fashion. He continued that if one owns land, one should have a reasonable expectation to pay a fair share; he said the covenants in their revised state concerning dues have been re-recorded twice since the initial change was made. Fraser Getgood said that past, present and future boards cannot change covenants on their own. All boards can do is follow what membership enacts by vote, and the board has to go by recorded rules and procedures. He went on to say that covenant changes must be advertised in a set process and a required vote be taken. This process was followed in 2001 according to Fraser. The fire caused any stored documents to be lost, so we have only the county courthouse's records of the vote on which to rely. Joyce then said that she didn't feel it was legally processed change to the covenants and that they may have to go to court. John Collier suggested another possible way to redress the covenant change would be to introduce a resolution to change the covenants. He said the recent change was spearheaded by Shirley Smith and encouraged Mrs. Shelton and Mrs. Morhard to discuss the process with her. He mentioned that going to court is a costly undertaking, and emphasized that the board would be happy to follow the process of changing the covenants if Mrs. Shelton and Mrs. Morhard (or any others) implemented the covenant change process. He then polled the board on the following question: "Should we enforce the 1/11/07

recorded version of the covenants (the most recently recorded document)?" The board responded unanimously that it feels the most recently recorded version of the covenants should be enforced. Fraser Getgood emphasized the importance of viewing the covenants as a "living document" which changes as the community changes. Old drafts of the covenants are valuable as "history" but are not status quo. John Collier mentioned that at one time dues were \$28.50 per lot but that clearly that number has changed over time. Ruth Franck said she supported enforcing the current covenants but that she feels the board should also consider keeping faith with what had been said in the past. John Collier said the association would reinstate the bills, and suggested that those with questions re-read the covenants. Joyce Shelton agreed that the covenants had been changed but that she disagreed with the method of implementing the change. She went on to say that if raising money was the goal, club property should not have been sold at a "fraction of the value." Other members supported the board after the pool. Bob Farina said he was pleased the board had "stuck to its guns" on the issue. Roger Guy thanked the board for its time, and had special praise for Frank Stewart and Mike Silagyi for their hard work. Scott McCay said, while thanking the board, that though a recent vote (on the campground) had not gone his way, he was still there and supporting the association. Jill Goodrich-Stuart thanked the board for taking a stand on supporting the covenants whether or not they personally agree with them as they are written.

All business being concluded, the board voted to adjourn at 10:50 a.m.

Full Septic Report submitted by Mike Silagyi for inclusion into the minutes

“Subject: BQS Clubhouse Septic System

Thursday, November 30, 2006, Michael Silagyi and William Sanford (BQS maintenance man) met with John W. Hollowell to evaluate the BQS clubhouse septic system. Mr. Hollowell is an Authorized On-Site Evaluator (AOSE) approved by the Three Rivers Health District to evaluate soil conditions for septic systems. Northumberland County and Heathsville are in the jurisdiction of the Three Rivers Health District.

Mr. Hollowell is not required to report his evaluation findings to the Three Rivers Health District. He stated that the Three Rivers Health District will work cooperatively with BQS to repair or replace an already existing septic system. He does not feel that the clubhouse would be shut down because of our proactive measures.

Septic System History

The BQS clubhouse septic system was constructed in July 1964 for American Central Corporation by A.E. Self. It consists of two (2) 750 gallon septic tanks, a distribution box, and ten (10) distribution lines that are 100 feet in length each. The two (2) septic tanks are in two pieces, a bottom half and a top half. The top of each tank is at ground level. Liquid effluent is then gravity fed to the distribution box and out the distribution lines into the drain field. The distribution lines are made of iron sheathed in tar paper. The distribution lines are buried on a slope from 2 feet deep to approximately 4 feet deep.

November 2003 the septic system failed at the clubhouse and BQS contracted with One “WHAY” Sanitation Co. LLC to evaluate the system. As R. Henry Whay was cleaning the tanks and the distribution lines he determined that ground water was seeping into the tanks at the seam where the bottom and top sections of the tanks are joined. He extracted pieces of tar paper that was used to sheath the iron distribution lines. This meant that the iron distribution lines had rusted away. Lastly, the lines were determined to be approximately 75 feet in length not the 100 feet as designed. Mr. Whay commented that the system may work for another six hours, months or years before it failed again.

Recent Events

August 2006 BQS was hit hard by tropical depression Ernesto. The clubhouse was closed due to rain and high winds. The pool was closed for the season because it was flooded with water from the Potomac River and had to be cleaned. The BQS Annual Membership Meeting was postponed. A tree in the vicinity of the drain field was toppled and uprooted. September 9, 2006, the clubhouse was used for a wedding reception and the toilets in the interior bathrooms backed-up. The weekend of September 16, 2006, the showers in the exterior bathrooms backed-up. The Northumberland Association for Progress Stewardship (NAPS) annual social was to be held at the clubhouse on September 23, 2006. On September 17, 2006, Michael Silagyi asked NAPS to have their social at another location because the septic system could not accommodate 125 people. A family reunion was held at the clubhouse on October 1, 2006, and the toilets in

the interior bathrooms backed-up. BQS was hit by a sever wind and rain storm the weekend of October 6, 2006. November 1, 2006, the water in the campground was turned off. Several campers used the bathrooms at the clubhouse between November 1, 2006 and November 13, 2006. The system functioned but very slowly. The clubhouse was closed November 13, 2006, when the toilets would not drain when flushed. Michael Silagyi started calling contractors on November 16, 2006, to have the septic system evaluated. The clubhouse was reopened November 20, 2006; however plastic was placed over the toilets and sinks so they could not be used, and water was shut off to the toilets and sinks. A portable toilet was delivered November 21, 2006, enabling us to keep the clubhouse open.

During October and November the BQS area has been hit with several significant rain storms about every second week. There has been standing water on the clubhouse lawn since August 2006.

Michael Silagyi Interpretation of AOSE Evaluation

Mr. Hollowell bored a dozen holes on the clubhouse grounds to evaluate the kind and condition of the soil. The ground is saturated. The septic tanks are full and ground water is seeping into the tanks at the seams where the bottom and top halves of the tanks join. The drain field is no longer functioning because it is saturated, some of the distribution lines may have collapsed due to age, and the slope of the lines may have been compromised by the uprooted tree.

This is a description of the ground in the vicinity of the clubhouse. The ground has a thin layer of top soil. Beneath the top soil is a layer of sand and clay that is 12 to 24 inches thick, very wet, has a consistency of "play dough", and is not very porous. Beneath the sand and clay mixture is clay which is not porous. The clubhouse is sitting on a large clay pot filled with water.

If BQS drained the two septic tanks they would just fill up again with ground water from the distribution lines or from seepage at the seams where the bottom and top halves of the tanks join. The two tanks should be replaced with larger capacity, one piece tanks.

Holes bored in the drain field were quickly filled with ground water. Effluent from the tanks cannot flow properly into the distribution box and out into the drain field.

Holes bored between the pool and the Potomac River, and the pool and Cod Creek filled with water slowly. However, BQS may be limited on the size of a drain field in these areas because the field must be at least 75 feet from the water.

A hole was bored in the circle in front of the clubhouse and fill dirt was discovered. This is not suitable for a septic system.

A hole was bored in the grass area of the front parking lot. The ground there is too compacted to accommodate a drain field.

Holes were bored at the east end of the parking lot adjacent to the property of Mrs. Culp. This ground is higher, was not as saturated as the lawn areas, and could be considered for a drain field.

Holes were bored in the trees of the boaters parking area. This ground is higher, was the least saturated, and could be considered for a drain field. However the 75 foot setback from Cod Creek must be considered when determining the size of the drain field.

Results

Mr. Hollowell will prepare an evaluation report for our review. I asked him to provide us with a very detailed evaluation report in laymen terms, with several possible solutions, estimated costs, engineers, and installers. He said that he would. However BQS may have to hire an engineer to design a solution that is agreeable to the Three Rivers Health District since he is a soil evaluator and BQS has very, very poor soil conditions. He estimates that his on-site evaluation and report preparation will cost between \$150 and \$300. The evaluation report will be ready in two to three weeks.

Possible Solutions We Discussed

BQS may be able to construct a mound and peat system over the current drain field. When a large event is planned, we drain the new, larger capacity septic tanks prior to the day of the event. This will allow people to use the toilets and water. The tanks will fill with waste and water, and effluent will then drain slowly out to the drain field.

BQS may be able to construct a drain field at the east end of the parking lot adjacent to the property of Mrs. Culp. Trees will have to be cleared. Effluent will have to be mechanically pumped to the distribution site because of the distance and the higher elevation. Mrs. Culp may be opposed to this solution. What happens when the electricity is off?

BQS may be able to construct a drain field in the trees of the boaters parking area. The trees will have to be cleared. Effluent will have to be mechanically pumped to the distribution site because of the distance and the higher elevation. Size of the field may be restricted due to the close proximity of Cod Creek. Property owners across the street may be opposed to this solution. What happens when the electricity is off? The pipe line to the distribution area will cross existing utility lines, driveways and the circle. Parking for the boaters will have to be relocated.

BQS may be able to construct a distributed system that is on a timer. The timer will control flow of effluent to more than one drain field by opening and closing flow valves. This solution will reduce the saturation of one drain field. What happens when the electricity is off?

BQS could install several large capacity tanks with no drain field. We would have to drain the tanks several times each year.

AOSE Report

I talked with Mr. Hollowell on December 22, January 2, and January 5 regarding the late report. Mr. Hollowell prepared a report dated January 7, 2007, and it was received January 9, 2007.

The report states that the association could request a waiver from the health district to install a conventional system over the existing field if we can prove financial hardship. I would not try to defend a financial hardship scenario. In addition, this does not resolve the problem when we have high water table conditions because the effluent will not drain.

The report contained only one recommendation with two possible sources, Puraflo and Ecoflo, for the recommendation. The report recommends we install an above ground or mound and peat system. The mound should be located in the trees between the cul-de-sac on Bay Quarter Drive and the boat ramp parking lot. This is the location of the best soil on the clubhouse grounds. We should install two large capacity tanks and the effluent from the tanks pumped to the mound. The pump mechanism for the effluent would be placed on a timer to control drainage into the mound/drain field.

I talked with Mr. Hollowell and he estimates that the cost for a Puraflo system would start at \$20,000 and an Ecoflo system at \$16,000. There may be additional charges for digging a trench, length of line to be installed, installing larger capacity tanks, and removal and disposal of old tanks. These are estimates and we need them for planning purposes.

I have concerns with this recommendation:

- How large of a mound can be installed in such a small area and still stay 75 feet off of the Cod Creek shoreline?
- What effect will the roadside drainage ditch on Bay Quarter Drive have on the mound/drain field?
- Could we pollute Cod Creek by having effluent seep into the creek via the roadside drainage ditch on Bay Quarter Drive?
- What happens to the boat ramp parking lot in very wet conditions like we currently have and we are pumping additional fluid into the area? Will the parking lot be rendered useless because it gets saturated?
- How big of a line needs to be installed to carry the effluent from the holding tanks to the mound? How do we get over/under the water, electric and telephone service? How deep does such a line need to be installed? How will the line be affected by vehicular traffic?

We need to hire an engineer and start talking with the Three Rivers Health District.”