

**MINUTES  
LONG BEACH CIVIC ASSOCIATION March 12,  
2022 MEETING**

**DATE:** March 12, 2022 at 10AM

**BOARD MEMBERS PRESENT:**

Torben Huge-Jensen, Cathy Collins, Patti Oehmke, Jolene Lauria, Mieke Rockhill, Steve Perlik, Mike Malarky

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**CALL TO ORDER**

Torbin Huge-Jensen opened the meeting to order at 10:00AM.

**PLEDGE OF ALLEGIANCE**

Torbin Huge-Jenson led the pledge of allegiance and a moment of silence in respect for Ukraine.

**FINANCIAL REPORT**

Cathy Collins provided a detailed financial report for February's disbursements. She discussed each line item and explained the disbursements since the last report.

- Unanimous voice vote accepted the financial reports.
- See end of minutes for financial statements.

**NEIGHBORHOOD WATCH/SECURITY UPDATE**

Debbie Berens is the LBCA's liaison with the Neighborhood Watch Program and will be attending a meeting on Monday with the Sheriff's office. Anyone with safety concerns should contact Debbie. Since last month there was nothing new to update – our community remains the safest in Calvert County, according to the Sheriff's office.

**OLD BUSINESS**

- **Spring Work Day** usually happens the last weekend in April, this year the date is set for May 14. Torben asked for anyone who would like to see a certain project done, please contact the board. The board and a couple of attendees urged others in the room to volunteer for this community project.
- **Off-shore Revetment "Living Shore" Project Flag Ponds** has been funded by the County and State. More details will be shared as the project proceeds. Torben explained that this project should help protect our community's shoreline as well as Flag Ponds.
- **2022 Road Fees and Membership Dues.** This topic dominated the remainder of the meeting and is reported below in the format of Q&A and Comments & Concerns.
- **Kayak Racks** – Torben announced that the LBCA is looking into installing kayak racks on the South and North Beaches; we would need to infringe on property owned by the Beaches Water Co-op to install a kayak rack for the South Beach. He introduced Gary Clarke from Beaches Water Co-op (and a resident of our community) who explained that the property on South Beach has a standing concrete pipe which is a well head and the pumphouse, in addition to lots of piping underground. Scheduled maintenance brings equipment that takes up half of the property, so that area may not be blocked. They have had problems with mischief-makers scaling the fence to get to the pumphouse and Gary has replaced the roof twice. He identified the liability issues; someone hurting themselves on the property could hold the Co-op liable, and they would have to obtain new/increased coverage. If that were the case, the Co-op would like for the LBCA to help defray the costs. This project is still a work in progress.
- **Mosquito Spraying** - Gary reported that this year, the County requires that requests to have no spraying, or more spraying must be submitted to the county in writing. The deadline is April 1<sup>st</sup>. Here is the link to submit your request to the County (if you live on a county road), [CLICK BUTTON BELOW](#). You will find a pdf for this form at the end of these very long minutes. Do not send these forms to the LBCA if you live on a county road. The LBCA pays the County for Mosquito Spraying on the private roads in addition to other road maintenance and repairs; please contact the LBCA if you would like to request an exemption to spraying: [CLICK BUTTON BELOW](#).
- **Daycare Center:** Torben stated that when he first became involved with the daycare money was owed to the LBCA that we could not collect. Right now we have very responsible people that are looking at opening a daycare center, we hope this will happen. They have to work on licenses and other things and during that time they are paying us a minimal fee every month to hold it.
- **New Community Bulletin Board Sign:** When the new sign under the high wires is up we will have a banner over it that announced upcoming meetings.

**2022 Road Fees and LBCA Membership(s)****Questions & Answers:**

**Q:** Is the general fund the LBCA fund or is it the Road fee fund?

**A:** General fund. For the last two years we have not done anything to the roads due to lack of funds. There will be large expenditures from the Road Fee Fund when we have contracted for the road work to be done.

**Q:** How many miles of roads do you have to maintain and what's included in the Road Fee?

**A:** Two Miles. Torben explained that the LBCA Road Fee Fund has restrictions on how the money may be spent: repairs and maintenance, snow removal, water management, streetlights, tree-trimming, lawncare – all other non-road related expenses are disbursed from the general fund.

**Q:** Does anyone have a map that shows what roads make up these 2 miles?

**A:** Yes, you will find a copy included with these minutes.

**Q:** The remainder of the roads that are not covered by the road fee are all county-maintained and serviced?

**A:** Correct, we maintain our roads privately owned by the LBCA and the County takes care of the County-owned roads.

**Q:** Why the large increase in road Fees?

**A:** The bottom line is that what we have charged to date does not generate enough income to maintain the roads. The main reason we are doing this is because it is our responsibility as a civic association, and the fees that were being charged, as you all may know by now, were set in the 1930's and NEVER CHANGED. You may not know this, but some people paid \$2.50/yr, some people pay \$7.50/yr, some people pay \$12, and it goes up. And they were never changed from when you purchased your home. Two miles of responsibility that we have to address, and these roads have not been well maintained. You could go out and look at these roads today and see that you can barely walk on some of these roads when it rains; the potholes are filled with water, and it is not safe for emergency vehicles. The old Road Fees barely raised \$9K. The repairs that are needed are in the range of \$50k to \$60K, maybe even \$100K

**Q:** Why couldn't the increase be done gradual?

**A:** We did struggle with how we can fund these costs, and the need is getting urgent. If some roads are not maintained, we will soon no longer be able to drive on them

**Q:** You said we haven't done any work on the roads in two years, can you elaborate on what kind of work you intend to do?

**A:** We have to fill holes, maintain it so that the roads are safe and to make sure that the storm water does not run and collect in certain areas and so on. Once we get the contract to maintain them, we will publicize what work will be done. We will obtain at least 3 bids to do the work.

**Q:** If everyone pays these new fees, how much money will you collect

**A:** We estimate \$40K

**Q:** Why don't we all have the same fee? Is there a way that we can just start over and reset it, so that it is a flat fee and each home pays the same?

**A:** Everyone does not have the same fee because it goes by your covenants. This is one of the problems the board has run into. A lot of people don't know things about the road fees. Some are based on a per lot basis. Section A required 4 lots to build on @ \$2.50 per lot. Others are based on frontage at 20 cents per foot, and some are a \$40 flat fee. All the board could do is go back in the history of when these documents were passed on to us. It made no sense to us and we could not find out why. It's a mix of stuff and we want the whole community to know that this is not a simple fix. For example, you can't say "my neighbor is only paying \$20 and mine went up to \$60" because when you look in the covenants you may find that your neighbor pays by the lot and you pay by the foot. Some covenants say "\$2.50 per lot OR 20 cents per foot, scratch one out" and nothing is scratched out.

We can not do a reset legally now. The fees are tied to the covenants and to get to a flat fee the covenants would have to be revised and registered. The only thing we are aware of that we could legally do to increase road fees is to raise it per the CPI.

**Q:** I don't need 4 parking passes, I only need one. Why can't I pay \$15 for membership and then purchase the amount of passes I need? And what is to prevent me from selling or giving the extra passes to others?

**A:** We had to make a determination of the administrative burden to handle individual requests for passes. There is nothing to stop sharing of extra passes. We don't have the capacity to police that.

**Q:** Why didn't you have these kinds of discussions before you voted on it? Why was there not a comment period beforehand?

**A:** We have been having these discussions about raising road fees for at least three years, and the topic of raising road fees and membership dues was specifically addressed at monthly meetings for the last part of 2021. Notices for these meetings with agendas were emailed to everyone we have an email for in the community. Additionally, detailed minutes were distributed by email after every meeting. That would be considered a comment period. We notified the community of what was going on and many chose not to get involved until it had been voted on.

**Q:** When do these road fees have to be paid? What happens if you don't pay your road fees? Do they have to be paid by April 15<sup>th</sup>?

**A:** You are legally responsible for paying them. You don't have to pay it by the 15<sup>th</sup>, we want individual homeowners to come to the board to talk about your concerns individually. We will delay implementation while we sort out these issues with individual homeowners.

**Q:** So you have no idea how much it will cost to bring the 2 miles up to code so the County will take care of them?

**A:** This can't be done for a number of reasons: the way it works is that we would have to bring them up to code and then the County might consider it. They will not take dilapidated roads and they have not wanted our private roads in the past. The other point is that once the roads are owned by the County they are considered public roads. We don't want the county to take our parking lot; we want to keep our community private. Public roads would make the beaches public. This was communicated at the last meeting and the idea of having a public beach and loss of our privacy status was not acceptable to attendees.

**Q:** Why not send letters in addition to emails?

**A:** We are mindful of keeping expenditures low. It costs \$1K for each mailing.

**Q:** Why should I have to pay for an increase in road tax for the people who live down on the beach front who don't want their private road to be a county road? Shouldn't they pay for it?

**A:** The people who live on private roads pay the Road Fees in addition to county taxes which maintain the public roads in our community. We have to look at this from a community point of view; it takes a village to take care of a community. You should not think of it as only "MY" property, you have to think about the community as a whole for safety, and keeping our house values up. And I think we all agree that this is a great community to live in. When our neighborhood watch person goes to the safety meetings, the deputies tell her that we have the safest community in the county.

**Q:** When you first turn onto long beach it needs street lights. Are you going to install street lights?

**A:** The county provides street lights on county roads, the LBCA pays for street lights on the private roads.

**Q:** What does the membership fee provide other than parking passes?

**A:** The right to a vote and other community expenses like the trash disposal and porta-potties, lawn care, liability insurance, workers comp insurance, community center expenses (utilities/maintenance/insurance) and other expenses.

**Q:** Why can't we just fill the potholes with hard-pack gravel, not waste money on a road that is deteriorating, given that we lose 4" of beachfront every year and one day there may be no beach?

**A:** The board will look into all options to repair the roads when we go into the bidding process.

**Q:** How can you raise road fees if your deed says it is a certain amount?

**A:** Your deed may say a "sum equal to", and all the deeds are not exactly the same. The fee was set when the homes were originally platted and the phrase "sum equal to" permits the board to raise fees to the CPI. The Board asks residents who feel the charge is incorrect, to please come to us individually. We have already had a number of residents come to us, and we can look at your specific case.

**Q:** Are you going to raise the rates again in the future?

**A:** We're hoping to never have to, to not raise road fees again. If we follow this logic, we do it now and then take a couple of years to fix the covenants. We should not have to raise road fees if we are able to standardize the covenants (but we don't know what that process is yet) and make road fees a flat rate where everyone pays the same.

**Q:** What if a property owner can not afford the rate increases?

**A:** If you have an affordability issue, we will schedule a payment plan. Come to any member on the board to discuss. We have said this at each meeting and we do have some residents who use a payment plan.

### **Comments/Concerns/Discussion (summarized)**

**Comments by the Board (Jolene):** We really want to hear every body's voice, and understand there are some pent-up questions and concerns. This is the 3<sup>rd</sup> meeting that we've had on the Long Beach Community fees since the changes to road fees and membership were adopted by the board. However, it should be no

surprise because this topic has been discussed at every board meeting for the past 3 years. Emails were sent to the community to provide notice of the meetings and the agenda. Detailed minutes were emailed to the community following the meeting. Every attempt was made to communicate these issues before the board adopted these changes. Attendance by the community at the monthly meetings made it quite apparent that these issues were not of interest to many members of the community. The board is open and transparent because the board members are your neighbors and that is what board members would want and expect from the Civic Association if we were not sitting on the board.

We can not repair the roads with the budget we have. The Board worked with a scenario of how we could adjust what is in your covenants and bring it up to today's standards so we could have the funds to engage in a contract to fix the road. We had a lot of choices and we met with Cove Point and many other communities. We have also consulted legal counsel on a volunteer, pro-bono basis and have been assured that what we have done is legal and correct. The bottom line is that we could raise prices from what they were in the 30's to today's pricing. We decided not to do that because it would raise fees more than 10x what you are now experiencing. (Note from Patti: one dollar in 1939 is worth \$20.27 today; the dollar has lost 95% of its value since 1939 – data.bls.gov)

The reason why we chose 1970 is because that was the last date that properties came into the community, and was the least expensive way to go forward with the CPI. We thought that was a fair and equitable way. We did not change the basis for the individual amounts for each household.

We have more complaints on a daily basis about the damage and deterioration of the roads than we have about the road fee increase. Everybody who walks that road will stop a board member to complain and ask "when are we going to fix this?" So we are trying to address the deterioration of our roads. The reason we want to engage the community is so that we can all understand each other.

**Rebecca Lilly:** The covenant is frustrated by a sudden increase and would not be if the rates had been raised over time. You should have changed the By-laws before adopting the rate change; you should just copy & past Cove Point's by-laws which address prickly points and then have ALL of the members vote, not just the Board, as required by Case Law. The by-laws must also be updated if you want to charge to modern pricing and to establish your authority. I don't disagree with a rate increase, but you can never raise them again, according to your own bylaws. You must allow access to the roads that the road fee payment covers. You can still upcharge for parking because that's exactly what cove point does. They allow people to drop their stuff off and then go. You may not be able to have a guard who blocks the roads, legally. You are making yourself vulnerable to legal risk. We HAVE TO find a way to get everyone to a flat fee or risk litigation. Cove Point allows members to vote on all changes to assessments and dues. You have an unjust enrichment problem by charging everyone different rates. This was not done in a careful and thoughtful way.

**Board Response (Jolene):** We agree that the fees should have been increased gradually over 83 years, but they were not. We can work on the Bylaws.

**Attendee:** Even if you do walk to the Beach you are subject to being turned away. My son was turned away.

**Board Response (Jolene):** There was a time period where people were turned away and I was not aware of that until after the fact. That should not have happened. Please let the board know if you experience a problem like this.

**Rebecca Lilly:** When I moved in a couple of years ago, I didn't know who you were or what you were and the letter I received assumes that a new person coming in would know more than they did. So maybe when you have new members that move in you should consider that when you write the welcome letters, maybe you would get more attendance at the meetings.

**Board Response (Georgia):** The welcome letter refers you to the website to get that information.

**Danny Donaldson:** Regarding community drainage - they put in a lot of drain pipes throughout the area and we've had a road collapse and they outsized the drains 4X so instead of being 18" they are now 4 or 5 feet. All of that water goes into flag harbor that is now getting ready to spend \$100K to dredge out YOUR land from our property. So it might be something that maybe in the future you can work with the Flag Harbor Condo Association and split some of those fees.

**Note from Patti:** I believe he is speaking of Calvert County drain pipes.

**Board Comment (Georgia):** A lot of people still do not know that there are seventy homes in the community that have no road fees. Part of the reason for disengaging the parking passes from the road fee; was to get these 70 houses that don't have road fees to become part of the community and pay their fair share. So now if they want to use the beaches they have to pay for a membership. And we have already seen that this change has helped.

**Rebecca Lilly:** For the homes that are not required to pay road fees you can implement an implied negative reciprocal covenant; if you can't get them to consent to road fees, you apply this covenant because those homes are receiving a benefit at the cost of others and it gets them to chip in their share.

**Attendee(s):** A couple of attendees had complaints about the price increases for the road fees for their specific homes.

**Board Response (Jolene):** What I am offering is if there are extenuating circumstances either because we looked at your covenants wrong and we did not address it properly, or financial hardships, we will meet with you one on one and review it together. If we have made a mistake, and maybe we did, we will fix it. I don't think its appropriate to talk about individual people's finances at a public meeting.

**Attendee:** You should install speed bumps to eliminate speeding.

**Board Response (Jolene):** We plan to install speed bumps. Especially in the flats where water in the roads splashes onto properties that line the road.

**Dona Turner:** You don't want us to be separated from you or have us create our own community away from you. And you don't want us to stay and get legal help and support and say we don't have to pay them because you didn't do it the right way.

**Board Response (Jolene):** There is an assertion that we did not do this legally. I will say we have spoken to counsel and have received assurances that we did everything legally. If this is so, the fees will have to be paid. If it is not, it would be a good idea to meet with Rebecca and see where we can come to agreement. I do believe it would be a good idea to form a working group. A good goal would be for us to normalize everyone's fees. It could take more than a year to look at each covenant individually. With the current condition of the roads, we did not feel we had the time to wait that long.

**Attendee:** Our deeds give us the right to access beaches and roads, but does not say anything about not being able to park there.

**Attendee:** My suggestion is that when you start talking to contractors about these roads, that you make that open to everybody to see what the plan is before you make the final decision.

**Board Response (Jolene):** We want to see more participation in our contracts. and we have a preference for residents (who are contractors) if they have the skills, licenses, expertise. We would like to have at least 3 bidders. When this building was renovated we tried to find local contractors. We used to have a lot of volunteer work done to build these projects, but no longer have that resource.

**Attendee:** this board only represents 38% of the population. Yet it made a decision for 100% that is going to cost everyone a lot of money. In order to be able to park the beach you have to be a member, and you can not pay that \$100 UNLESS you have paid your road fees. You stated that in your newsletter.

**Lisa Ridge:** You talk about "we'd like to put up kayak racks, we'd like to do this, we'd like to do that", maybe right now that is not the financially viable option

**Jeri Kalins:** Regarding Community involvement – I have never seen this many people at a meeting and it's great that you're here and I would love to see it continue. So maybe you could get involved in some community projects, like Spring Work Day (Clean up). We only have a handful of people who volunteer to maintain the beaches and clean up the roads. We need some new blood. Some of our regular people can not keep doing what they have in the past (one of our participants is 85 years old). And it makes you a part of the community.

**Lisa Ridge:** I get that you are probably going to get away with raising road fees. My issue is with the Board shaking down people for the other hundred dollars to be able to park down at the beach. Our covenants give us that right of way over the roads to the beach, the Chesapeake bay. Which would seem to go along with parking at the beach. Expecting people to be forced to pay \$100 to join a VOLUNTARY association is wrong. The problem is that the developer made the association voluntary when they could have made it mandatory at the beginning of development.

**Board Response (Mieke):** HOAs had not been established as an entity at the inception of this community, so a voluntary civic association was established. (Note from Patti: This was the norm before the 1970's and 1980's when HOAs became a common organization for new communities)

**Lisa Ridge:** You can't tie the ability to actually use your right of way to something that is voluntary and make it mandatory. Parking passes and the road fees are not tied to our ability to use our right of way. If you try to enforce that, you will run the risk of being sued legally. You are no longer going to be able to lock the gate at 10pm at night, because our covenants do not say that we can only use the right of way during specific hours, it allows us a general right of way. Your remedy for people who don't pay their road fees is to put a lien on their property, not to tell them that they can not use their right of way that they have in their covenant. People will not tolerate that after having their right of way being held hostage.

Here is the problem: you raise your road fees eight fold, and tack on to that another hundred dollars for you to be able to use the amenities that you have the right to access in your deed at a time when inflation and cost of living have made it very difficult for people. You are restricting MEANINGFUL access over the roads that we have a right of way in our deeds.

**Board Response (Jolene):** Access and use of the roads is not denied; you have the right to use the beach. That's in your deed. What we're saying is that you can park at the beach and have the right to vote if you paid for membership. Non-members may not park in the Lots, but they may use the roads by foot or car to shuttle their gear to the beach.

Regarding the legal aspect, I think the way case law works is that we have to exhaust all legal remedies before you go to court. I would like to offer to the community residents that we speak to you individually about your concerns. And we learn from you. Before any of us says "I'm just going to go to court". We have also consulted legal counsel on a volunteer, pro-bono basis. We will address the legal issues when they come up on a case by case basis. And if anyone has questions on how we came up with your fee, we will be happy to look at it and address it.

**Lisa Ridge:** A lot of people can't walk to the beach. What if you have a 2 year old or a 1 year old or an elderly grandparent?

**Response:** I get the idea that it's hard for some people to walk and have access to the beach, and the Board will look into that.

**Lisa Ridge:** What I'm hearing from the board today is that what they intend to use road fees for the improvement of the condition of the parking lots. Which makes them then part of the roads in the community. It is a VOLUNTARY association, but you are then making a fee that says "It may be voluntary, but it is mandatory if you want to have meaningful access to use the right of way that you have a right to in your deed."

**Response (Torben):** No, we did not say that. We said that if we can legally use road fees for any LBCS-owned roads, yes it will be done.

**Attendee:** I'm one of those residents who got those emails and read it very quickly, got the general gist and did not attend meetings. I just wanted to say that Rebecca made a good suggestion to have some sort of a working group with legal expertise, people that know a lot about the deeds and covenants and start working on it – it is not going to be solved by next month.

**Board Response (Jolene):** I like the idea of a working group and having members and not just the board solve some of these problems. We have a lot of work to do; website needs to be upgraded, we have payments that need to be automated, we have roads that need to be repaired – the list goes on and on. I welcome your participation to help in looking at these covenants. I am excited to see that there are some people who may be interested in helping.

### **JOLENE LAURIA CLOSES THE MEETING**

I want people to know when they leave here that this is a multi-year process. Even though people are unhappy, we ARE moving forward, we ARE actually getting somewhere today because we have people interested in working on very difficult problems. We also have some ideas of maybe how to approach our fee structure, now or in the future. So, I actually think we have moved forward. It is more helpful for us to meet with you on a one-on-one basis, to understand than for people to write comments on a medium that may or may not be informed. It is much better to meet human-to-human, and I may be old school, but social media is NOT helping our community. Period. These meetings are here once a month, and this is a really great opportunity to speak and hear, put a face to a comment and learn from each other.

I should have mentioned at the outset that our President is away for a work-related responsibility so we must confer with Richard. We have a big to-do list and we are happy to do that. Contact Patti if you don't get the minutes by email and she will find a way to get them to you. I was trying to end on a positive note and I STILL want to end on a positive note. Because it doesn't matter if we agree or disagree, if you guys come back next month and we are still working on these issues, that will be a win. And we may not make everyone happy but we are definitely trying to do the right thing for the community. It may not always seem that way sitting in from your seats, but when you join us in our seats, maybe we can make better decisions together.

### **OTHER BUSINESS**

- Not discussed

### **ADJOURN**

The next meeting will be April 9th at the community center at 10:00 a.m.

It was moved and seconded to adjourn the meeting and Torben Huge-Jensen adjourned the meeting at 11:45 am.

Respectfully Submitted:

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Patti Oehmke, Secretary

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Richard Wilder, LBCA President