

Lakeview Estates Homeowners Association Minutes for the Annual Meeting - July 31, 1999

A quorum of members of Lakeview Estates Homeowners Association (LEHA) met at the Weathervane Restaurant in Readfield, ME. Quorum was established with 43 lots represented either in person or by proxy.

Present: 1,3,4,7,8,9,10,11,16,24,31,32,34,44,51.

Proxies: For T. Kroll: 2,45,56.

For K. Trainor: 22,36,46,53,57,59,60.

For R. Hicks: 12,18,30,41,54,55.

For W. Winn: 42.

For D. Day: 14, 37,43.

For E. Libby: 13,29,38,49,52.

For C/D Day: 17,40,58.

Attorney Howard Lake, representing LEHA attended from 1-3 PM.
President Tom Kroll called the meeting to order at 1:15.

Reading of Minutes

MOTION PASSED [K. Trainor/E. Winn]: Approve minutes of the 3/20/99 Special Meeting minutes as distributed.

Reports Of Officers

Treasurers Report:

Richard Hicks reported that LEHA had a good year financially. We collected over \$19,000 in maintenance fees, which is over \$7,000 more than any previous year. Several accounts paid off overdue balances. Agreements were made with some of these owners and the treasurer waived some accrued interest in return for full payment of dues, collection fees (if any), and some interest. All of these agreements did reduce our accounts receivable by over \$2,800, but I think that the money collected as a result made it worth it. (Balance Sheet and LEHA Cash Flow Report enclosed. Further details are available on request).

MOTION PASSED (unanimously)[C. Day/H. Hunt] Accept treasurer's report as reported.

Committee Reports

Common Lot Report:

Ed Libby reported that he researched the dock situation. The person Parker Pond Association uses does a good job and charges \$375 - less than what we'd been paying to put the dock in and take it out each season.

Also on the docks, Ed reported he had a quote for extending the dock out—extending out two or more sections. It would cost about \$1000.

It was decided to postpone further discussion regarding new dock work to "New Business".

Special Committee Report ("New Lots Committee):

Tom Kroll reported that the committee has been working since the 3/20/99 Special Meeting on the proposal to be voted upon today.

Unfinished Business

MOTION PASSED [D. Day/W. Winn(unanimously)]:To approve the Proposed Amendment to the Bylaws: Article II, Section 1 of the Bylaws is amended as follows: Section 1. Membership. The membership of the Association shall be limited to all persons who own a lot in the Lake View Estates Subdivision and such other lots accessed through Lake View Estates Subdivision as may be approved by the Association. Such other lots shall, for all purposes of these By-laws, be considered lots in the Lake View Estates Subdivision.

MOTION PASSED [H. Hunt/M. Kroll (unanimously)]: To amend the Articles of Incorporation.

MOTION [E. Libby/R. Hicks]: To approve the Ed Libby proposal,

MOTION PASSED [R. Hicks/K. Trainor]: To amend the motion to approve the proposal for LEHA:

iv. A. Right of Way

The LEHA will grant to Ed Libby, his heirs and assigns a right of way for access over the LEHA road from Sandy River Road to lot 32. The easement will be limited to a subdivision, following the Fayette Subdivision Ordinance in full, with a maximum of four new lots. Each lot must pay an annual road maintenance fee (currently \$200 per year). Full membership fees totaling \$800 per year will commence April 15, 2000, with \$400 paid for current year at the closing. A minimum of 4 membership fees shall be paid by the Liberty property. ((Underlining designates change in proposal)

iv. B. Covenants and Restrictions

The Libby property will be made subject to the exact same deed restrictions as apply to LEHA lots [, except there will be a deed restriction prohibiting division of the Libby property into more than four lots]. It is the recommendation of the committee that these restrictions be identical to the current LEHA restrictions and that it will not be necessary to have a larger minimum home size standard since these are to be lakefront lots. Restrictions will be accomplished by deed of the Libby property to the Association and then a deed from the Association back to Libby subject to the restrictions. The restrictions will, by their terms, be enforceable by the Association as a party and language will be included to allow individual LEHA members to enforce the covenants as third-party beneficiaries. Our legal counsel has advised us that individual enforceability is not guaranteed, but that if it is included in the document a court in the future might allow individuals to enforce the covenants. In any event, the Association would clearly have the right to enforce the restrictions. LEHA will release its right, as an association, to object to the driveway across lot 32. (Brackets enclose deleted words; underlining designates change in proposal)

Much discussion on the amendment to the proposal followed. The motion to amend the proposal passed with 24 yes and 19 no. [Yes:

1,2,3,7,8,10,11,12,18,22,30,34,36,41,42,45,46,53,54,55,56,57,59,60.

No: 4,9,13,14,16,17,24,29,31,32,37,38,40,43,44,49,51,52,58]

MOTION PASSED[R. Hicks/K. Trainor]: To vote on the proposal as amended.

After discussion, the amended motion was passed.

Vote: 40 for and 2 against:

For: 1,2,3,4,8,9,10,11,12,13,14,16,17,18,22,24,29,30,34,36,37,38,40,41,42,43,44,45,46,49,51, 52,53,54,55,56,57,58,59,60.

Against: (31,32).

MOTION PASSED (unanimously)[K. Trainor/R. Hicks] To send the amended proposal to the DEP and Fayette Planning Board.

New Business

Fire Safety: R. Hicks discussed fire safety—looking into what would be involved in having a fire hydrant installed at the common lot. Richard asked if 100% approval by the Association was required (probably). Richard will investigate this issue and report back to LEHA.

Common Lot Committee: Ed reported the common area doesn't look well maintained. Fence rails are down [Tom Kroll removed them as they were dangerous]. He wanted to work with a committee to improve the Common Lot.

Chet Day, Hugh Hunt and Paul Magner (volunteered by W. Winn) agreed to serve with Ed on the Common Lot Committee.

Ed also asked for funding to improve the dock.

MOTION PASSED [H. Hunt/M. Kroll (unanimously)]: To set aside \$1500 to start the dock project with another \$500 to be used for miscellaneous common lot improvement expenses. Maintenance of the dock is not to be considered part of these funds.

MOTION DEFEATED: [R. Hicks, W. Winn]: By-law amendment proposed: Add the following to Article II, Section 2: "Individual lot owner" shall not include corporations, financial institutions or municipalities.

Vote: For: Lot 11
Against: (1,2,3,4,8,9,10,,12,13,14,16,17,18,22,24,29,30,31,32,34,36,37,38,40,41,42,43,44,45,46,49,51,52,53,54,55,56,57,58,59,60.

MOTION PASSED (unanimously)[T. Kroll, M. Kroll] To nominate Chet Day to be caretaker for LEHA.

MOTION PASSED [P. Hetherly/J. Fournier]: Moved that LEHA Annual Meetings in July start later—around 4 PM.

After discussion, the motion passed.

Vote: 34 for and 7 against.

For: 1,4,9,11,12,13,14,16,17,18,22,29,30,31,32,34,36,37,38,40,41,42,43,44,46,49,52,53,54,55,57,58,59,60.
Against: 2,3,8,10,45,51,56.

Election of Officers:

The slate of nominees (the present board): President: Tom Kroll
Vice-President: Kathie Trainor
Treasurer: Richard Hicks
Secretary: Deena Day

Tom Kroll and Kathie Trainor announced they would not run for another term. Nominations from the floor were requested:

Nominations:

President: Richard Hicks and Ed Libby
Vice President: Dianne Gleeson, Ed Libby, and Bill Winn

The vote was taken on these two officers:

Vote for President:

Richard: 1,2,3,4,8,9,10,11,12,14,16,17,18,22,30,34,36,37,40,41,42,43,45,46,53,54,55,56,57,58,59,60.

Ed: 13,29,31,32,38,44,49,51,52.

Vote for Vice President:

Bill Winn: 1,2,3,4,8,10,11,12,18,22,30,36,41,42,45,46,53,54,55,56,57,59,60.

Dianne Gleeson: 14,16,17,31,37,40,43,58.

Ed Libby: 13,29,32,38,44,49,51,52,

Next, Dianne Gleeson was nominated for treasurer and was voted in unanimously.

Results: President – Richard Hicks
Vice-President - Bill Winn
Treasurer – Dianne Gleeson
Secretary – Deena Day

Congratulations to the new board members.

Many, many thanks to departing board members Kathie Trainor and Tom Kroll for all your hard work over the years. We appreciate your contribution of time and effort for the betterment of LEHA!

Clyde Walton, Chair of Congress of Lake Associations was to present a short talk on water quality and phosphorus pollution. He was unable to attend the LEHA meeting because he was called away, out-of-town, for a family emergency.

MOTION PASSED (unanimously)[D. Day/E. Libby]: Adjourn. Meeting was adjourned at 3:50 PM.

Respectfully submitted,

Deena Day, Secretary, LEHA

The new LEHA website address is: <http://www.geocities.com/80/Heartland/Shores/1753/leha/home.html>
or you can get there from <http://members.home.com/richardh1/home.html>

Proposal for Lake View Estates Homeowners Association

The following proposal was approved at the July 31, 1999 Lake View Estates Homeowners Association ("LEHA") Annual Meeting.

I. Background:

At a special meeting held on March 20, 1999, the Association voted to direct Ed Libby to revise his proposal to include these stipulations:

1. Legal costs related to LEHA/Libby proposal from today on borne by Ed Libby.
2. An easement (right of passage) for four new lots to use LEHA roads.
3. Private driveway on Lot 32 and other new lots with deeded right of way.
4. Deed-specified maintenance fees paid to LEHA.
5. Enforceable deed restrictions as good or better than Lake View Estates lots.
6. Minimum home size 50% greater than Lake View Estates lots.
7. Conservation land to be established as proposed, ownership to be determined.
8. Waterfront access for hand-carried boats part of the conservation land.

In response to the vote, a "New Lots Committee" was assembled to work with Mr. Libby to develop a proposal for the Annual Meeting. Members of this Committee are Deena and Chet Day, Kathie Trainor, Tom Kroll, David and Dianne Gleeson, Richard and Elizabeth Hicks. The Committee has communicated by e-mail and met with Mr. Libby and Attorney Lake on April 10, 1999 and on May 14, 1999 and held a conference call on June 2, 1999.

II. Process

The Association will be first asked to vote on an Amendment to the By-laws to allow incorporation of new lots as full members of the Association. A two-thirds vote is necessary to amend the By-laws. Most of the Committee members feel that, if the proposal passes, the new lot owners would make better neighbors and would become full and equal participants if they were full members of the Association. All committee members are in favor of the By-law change and therefore, the Committee unanimously recommends that all members vote for the By-law change. If the By-laws pass by two-thirds vote, an amendment to the Articles of Incorporation will be voted on to make similar changes to the Articles of Incorporation filed with the Secretary of the State of Maine. Regardless of passage or failure of the By-law amendment, the following proposal will be considered. A majority vote will be required to approve the proposal. If the proposal is approved, then final documents will be prepared and there will be a closing at a later date to sign the documents.

III. By-law Amendment.

The membership will consider an amendment to the By-laws in order to incorporate additional lots as full voting members of the Association. The proposed By-law amendment will allow the membership to vote to expand the membership to "those other lots accessed through Lake View Estates Subdivision." With this amendment, the additional lot owners may attend homeowners association meetings, serve as officers or directors, and vote. In the absence of a By-law change, they would not have these rights. The meeting will also consider a similar amendment to the Articles of Incorporation.

IV. Proposal.

A. Right of Way.

The LEHA will grant to Ed Libby, his heirs, and assigns a right of way for access over the LEHA road from Sandy River Road to Lot 32. The easement will be limited to a subdivision, following the Fayette Subdivision Ordinance in full, with a maximum of four new lots. Each lot must pay an annual road maintenance fee (currently \$200 per year). Full membership fees totaling \$800 per year will commence April 15, 2000, with \$400 paid for current year at the closing. A minimum of 4 membership fees shall be

paid by the Libby property.

B. Covenants and Restrictions.

The Libby property will be made subject to the exact same deed restrictions as apply to LEHA lots. It is the recommendation of the committee that these restrictions be identical to the current LEHA restrictions and that it will not be necessary to have a larger minimum home size standard since these are to be lakefront lots. Restrictions will be accomplished by deed of the Libby property to the Association and then a deed from the Association back to Libby subject to the restrictions. The restrictions will, by their terms, be enforceable by the Association as a party and language will be included to allow individual LEHA members to enforce the covenants as third-party beneficiaries. Our legal counsel has advised us that individual enforceability is not guaranteed, but that if it is included in the document a court in the future might allow individuals to enforce the covenants. In any event, the Association would clearly have the right to enforce the restrictions. LEHA will release its right, as an association, to object to the driveway across lot 32.

C. Waterfront Access.

The Association in its deed to Ed Libby will retain access for foot travel and hand-carried boats across the Libby property. A right of way will be granted by Libby to the Association, its members and guests, for access over Lot 32. At least 75' of shore frontage will be included in the conservation land and available for use for waterfront access. This area is located from the northern boundary of the Libby property southwesterly along the shore to a tree marked by the Committee during a site visit. The Association will have the right to install and maintain a path and use the conservation easement area.

D. Conservation Easement Area.

Approximately 40 acres shall be held as a conservation area where there will be no development. The conservation area will be owned by Ed Libby and then as sold, by the four lot owners. The Kennebec Land Trust will hold the conservation easement on the back portion on the four lots. The conservation easement, which is sometimes called a negative easement, will prevent development or other adverse uses of the property. A copy of the proposed conservation easement is available upon request from the LEHA Secretary. The Kennebec Land Trust will have the right to inspect and enforce the conservation easement, as will LEHA. The proposed conservation easement prohibits structures and motorized vehicles unless allowed by the holder and prohibits timber harvesting except by agreement with the holder. It allows passive recreational activities, including hunting, and would allow, in certain locations, utility installation. It allows public use, subject to reasonable rules by the owners. Access for public use will be from David Pond or the Sandy River Road. Access for Land Trust inspection and enforcement will be via David Pond, Sandy River Road, or the LEHA Road. Mr. Libby will be making a \$3,000 contribution to the Kennebec Land Trust Stewardship Account for future stewardship costs.

E. Consultant's Review

Ed Libby's plans shall be submitted to LEHA and be subject to the review and approval of an expert, mutually agreed upon, retained by LEHA and paid for by Mr. Libby. Such plans shall meet certain requirements of the Fayette Subdivision Ordinance of 1999 as noted below. (If the four lots are approved as a subdivision by the Town of Fayette then review by LEHA's expert is not required.)

1. Standard boundary survey in recordable form.
2. Permanent boundary markers to be set as shown on the Plan prior to closing with LEHA.
3. Driveway (access road) plans adequate for fire protection and emergency vehicle access as required by the Fayette Fire Department and as required by Section 8 O, 2a(1)(2)(3) and (6) with the maximum of four (4) dwelling units rather than two (2).
4. Erosion control plan.
5. Phosphorous control plan.
6. Storm water control plan.