

**July 11, 2023 Bonnet Shores Land Trust Meeting called to order 9:32 am.**

Present – Mary Flynn, David Kaufman, Arthur Hardy, Steve Puerini, Terrance Beaty. Dave Kaufman appointed Clerk to record minutes.

Mary welcomes Bonnet Shores Fire District Council Members Carol O'Donnell, Steve Danuszar, Carolyn DiLeo to the meeting to discuss the Bonnet Shores Beach club vs Bonnet Shores Fire District Trash Lawsuit proposed Settlement

Motion to go into executive session pursuant to R.I. Gen. Laws §42-46-5(a)(1) to discuss Bonnet Shores Settlement Agreement made by Mary Flynn and 2<sup>nd</sup> by Dave Kaufman, Motion passed 5-0

Mary Flynn reads the following into the record:

Events leading to July 11, 2023. Bonnet Shores Land Trust Executive Session:

- 6.27.23: Carol O'Donnell, Chair BSFD Council, called Mary Flynn, Chair, Bonnet Shores Land Trust and said she would like to meet at Carol's house.
- 6.28.23: Mary went to Carol's home around 7:00 am and Carol said she had the Settlement for the Lawsuit. She went over the items with Mary and briefly explained them. Note: this is the first Mary and the Land Trust had been officially made aware of a "lawsuit" and subsequent settlement.
- Carol told Mary that the Settlement was presented to the Council members at an Executive Session where four of the other five Council members were present. Carol said that all Council members present approved the Settlement. Carol said Carolyn DiLeo was not at the meeting, but Carol called her later that day, told her the details of the Settlement and Carol said Carolyn also approved the Settlement.
- Mary told Carol she would be sending this out to the Land Trust Trustees and cc'ing the council, which she did around 9a on 6.28.23.
- Later that morning, Carol O'Donnell called Mary and said – "Do you want the Land Trust Trustees to vote on this Settlement?" Mary said she did not know if that was necessary as the Settlement was approved by all the Council and was with the Judge. But she said that she would email the Trustees to find out if we needed to vote. Several hours later, Mary heard from the majority of the Trustees, and they wanted to meet to discuss the Settlement.
- 6..29.23. Mary was able to secure the Narragansett Library meeting room for Tuesday 7.11.23, when all trustees were available. Mary invited the Council to the first 30 minutes of the hour to provide any additional information that might be relevant to the Settlement as this was the first the Land Trust had heard of this document.
- July 5, 2023, Mary sent by email to the Trustees the Land Trust deed for the Community Center (12.31.98) and the current Charter and answers to questions that had been sent to William Conley in October 2022 when the Land Trust was beginning to review the Land Trust charter. Mary suggested that we use these in determining decisions for the use of Land Trust properties. She also asked the Trustees to try and avoid discussing the issue with the BSFD residents.
- We are today interested in any facts relevant to the parts of the Settlement that pertain to use of the Land Trust properties by the Bonnet Shores Beach Club, specifically items: 2 (overflow parking on day of the Fireworks and July 4<sup>th</sup>), 3 (overflow property on Sundays), and 4 (12 meetings a year *assuming this is for BSBC Board meetings; Carol verbally told Mary this was the reason for the meetings*).
- Mary said that the Land Trust plans to release the minutes of this meeting and results of any votes as soon as possible. The notes will be typed up, voted on by the Trustees and then posted on the Land Trust and the Secretary of State websites. Mary also said that she will ask the Trustees to not discuss the Session with anyone outside the meeting.

Mary opened the floor to any questions.

Carol O'Donnell spoke on the following:

1. At BSFD Executive Session to discuss the Trash Settlement Agreement, the 5 people present at the meeting approved the settlement agreement.
2. Kelly beach is small for use by residents and this agreement continues to provide residents 250 feet of Beach Club property for residents.
3. Beach Club can only get up to a certain point to clear out the estuary (aka breachway) to open up the flow from Wesquage Pond into the ocean. Our CRMC permit, to the best of her knowledge, give us once a year allowance to clear out the other side of the breachway. On our side we can clean it out whenever we need to. The prices we have gotten to move machinery down there is over \$2,000 each time. Beach Club is currently doing this for \$1,500 each time, which happens about 20 times a year and are currently billing us for this service.(\$30,000/year)
4. The Beach Club would make an annual donation of \$500 to the Bonnet Shores summer camp.
5. Beach Club Board meets on Monday nights, once/month. They currently meet at an outside place in October, November, January, February and March but are asking for 12 months at the Community Center, just in case they can't meet at the Beach Club.
6. Parking request in settlement for every Sunday during the summer, 4<sup>th</sup> of July and the day of the annual Fireworks:
  - a. They would leave parking open by basketball courts and handicap spots on Sunday's (Clerks notes: *about 4 spots including 2 handicap, which would leave very few spots for people to use basketball/pickleball, field and walking paths which are used almost everyday during the summer months*)
  - b. If Community Center is rented, Beach Club would not be able to use it
  - c. Carolyn DiLeo stated that she has an issue with overflow parking at Community Center due to Camp session. Camp has ~45 children on site until noon but it is not specified in the settlement agreement. Concerned that overflow parking is going to be on the grass for 4<sup>th</sup> of July and Sunday's but it is not clear in settlement agreement. Cars using Community Center for parking can be owners, members and guests of the Beach Club, not necessarily a resident or tax payer in Bonnet. No limit on number of cars using Community Center is stipulated in the agreement. Guests pay \$15, \$30 or \$40 depending on day of week. Parking fee is included in guest fee for use of beach club and parking but guests can only park in Beach Club lot after 4:00 PM.
  - d. Carol stated that they currently use the Funeral home for overflow parking and the funeral home does 'something in kind' for overflow parking compensation.
  - e. Dave asked if we know how much Wesquage pays for equivalent beach access and cleaning. Carol believes it is around \$6,500 per year for their beach access and cleaning but excluding life guard parking.
7. Brief recap of history: BSBC became Commercial in order to get the sewer easement approved and is charged 1.5 times tax rate as commercial bringing more taxes into the town of Narragansett.
8. Six live-ins are complaining they are residential and BSFD Council agreed as part of the settlement to treat them as residential and pick up their trash during the season the beach club is open. They are taxed as commercial by Narragansett and the Trash company would have to enter into commercial property through a locked gate to get to live-in units.
9. Beach club was initially suing for 10 years of trash and recycle removal but is now only asking for the six live-ins during the open season.
  - a. Carolyn DiLeo stated that she is concerned that we are setting precedent for picking up trash within a commercial site vs. requirement for residents to put trash and recycle bins on the street.

BSFD Council members were excused from meeting at 10:00 am.

Mary made a motion to continue in executive session. Dave 2<sup>nd</sup> the motion. Motion passed 5-0.

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Bonnet Shores Land Trust initiated discussion on the settlement agreement and what authority the Land Trust has to make decisions based on the Charter and Deeds to the properties within the Land Trust.

The Trustees discussed if the wording in the Settlement allowed use of Land Trust properties for parking or meetings based on:

1. The Land Trust Deeds for Community Center (December 1998) and Land Surrounding Community Center (February 1995)
2. The current Charter (1991 plus 1992 amendments)
3. Advisory opinion by William Conley, Jr., the attorney the Land Trust contracted in September 2022.

Items Considered:

1. Charter 1992; Section I: *“The trust shall have the authority to acquire, hold, and manage real property and interests therein including development rights situated within the Bonnet Shores Fire District consisting of open, agricultural, recreational, historical or littoral property, including existing and future wellfields and aquifer recharge areas, fresh water marshes and adjoining uplands, wildlife, habitats, land or buildings providing access to or views of water bodies, or for bicycling and hiking paths, or for future public recreational use, and land for agricultural use, or air space thereof.”*
2. 1992 Charter, end of last paragraph Section 1: *...hold all property or development rights solely as open space for agricultural uses or for water purposes or for public access or to prevent the accelerated residential or commercial development thereof, as the trustees may determine.*
3. Deed for Community Center: *All of the right, title and interest in and to that certain tracts or parcels of land ...”.*  
And the last line: *This conveyance is made upon condition that the hereinabove described premises are to be used exclusively for recreational purposes only and for no other purpose whatsoever.*

The Land Trust discussed attorney William Conley’s memorandum stating that:

*The trust shall have the power to:*

- (a) *[P]urchase, receive by gift, or otherwise acquire fee simple or lesser interests in real property, including development rights as defined in section 42-82-2 of the general laws, or any interest in real property consistent with [the] purposes of this act, including other development rights of any kind whatsoever, but only with the prior approval of the Bonnet Shores Fire District Council. (Italics added).*
- (b) *Accept gifts, grants or loans of funds or resources or services from any source, public or private, and comply, subject to the provisions of this act, with any terms and conditions thereof;*

The Trustees discussed if the wording in the Settlement for the use of the Community Center Parking Lot or the open field for parking of use of the Community Center constitute a monetary exchange?

In attorney Conley's opinion on the question – "Can the Land Trust charge for use of the Land Trust properties?", attorney Conley had advised:

*(IV. The Trust's jurisdiction over its land). This means that the Trust has all the rights over the property it owns that any other landowner would have, including the right to use the land (within the other limits present in the Charter), the right to exclude others from that land, ...*

*(III. Opening Trust Land for Recreational Uses). The Trust is neither required to open its land for recreational uses ... nor forbidden from collecting fees from its activities.*

Items concerning parking:

There was concern regarding parking at the Community Center by the individual drivers. How would this impact the insurance liability? What will this potentially do to the grass area? There is no stipulation on how to control how many cars would park and where they park? Will this impact residents from enjoying recreational activities which are on the rise?

The unanimous consensus of the Trustees was the wording would fall under a "barter" and the wording in the Charter did not allow for a barter exchange for use of Land Trust properties. The Beach Club charges their guests a fee, and included in that fee is a right to park.

The unanimous consensus of the Trustees was the wording in the current Charter does not allow Bonnet Shores Beach Club overflow, 4<sup>th</sup> of July events or other parking, nor use of the Community Center for meetings by the Bonnet Shores Beach Club.

Item concerning use of the Community Center for up to 12 Bonnet Shores Beach Club Board Meetings:

There was discussion and concern over the number of meetings, the amount of people, insurance liability, cleaning costs and potential conflicts with Bonnet Shores resident usage of the Community Center for meetings and recreational activities. This is in conflict with the Land Trust Charter and the deeds for the Community Center and surrounding land.

Mary made a motion that the Bonnet Shores Land Trust does not support the use of Land Trust properties as specified in the BSFD Trash Lawsuit settlement agreement. Motion 2nd by Dave Kaufman. Motion passes unanimously 5-0

Mary made a motion to disclose the actions on voting immediately following the meeting to the appropriate parties involved in the proposed settlement, and disclose the full minutes after ratification at the next open meeting. Motion 2nd by Terry Beaty. Motion passed 5-0

Motion made to end executive session and return to open meeting by Mary Flynn 2nd by Terry Beaty. Motion passes 5-0

Motion made to end open meeting by Mary Flynn 2nd by Terry Beaty. Motion passes 5-0