

**The Summit News**  
**March 1, 2004**

**Community Development Authority**

What is a Community Development Authority (CDA)? It is an entity that would allow the LHCC Association to participate in long-term AAA bond financing for major projects. These projects could include the dam, roads, water treatment and wastewater treatment resources, and sewer and water infrastructure. These are projects that must be addressed by the Association. Over the next several years, these types of projects will cost in excess of 5 million dollars. The prospect of funding with our current resources is a challenge, stretching our means to pay to the breaking point. Our roads are crumbling, state requirements for dam safety must be met, new sources of water must be developed, and the wastewater treatment facilities must continue to meet or needs and government requirements.

We can only raise assessments and impose special assessments to a limit. For many, the limits have already been reached! The CDA is a framework within which the LHCC Association can participate in low interest rate bond offerings to fund these projects. The advantage is that such funding spreads out major and immediate expenses over a period of up to 30 years at a very favorable rate. As the community grows, the income for the Association will grow proportionately. With a bond offering, the Association can fiscally manage satisfying immediate needs and control additional expenses to the membership.

How do we set up a CDA? Step one is to get the support of at least 51% of the properties in a vote. With 51%, the Board can go to the Frederick County Administration and Board of Supervisors and request endorsement for establishing the Authority. Once approved by the county, the CDA could then apply for participation in bond offerings.

This is a REAL opportunity for the Association, and the project will need the support of the property owners to make it happen. Talk to your neighbors and friends! Establishing a CDA will benefit all of us! Your support will be needed to make this happen. Attend our monthly Town Hall meetings to learn more about this program.

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*"It ain't what you don't know that gets you into trouble," Mark Twain once said. "It's what you know for sure that just ain't so."*

**Highlights of LHCC Board Meeting, February 24, 2004**

- Passed Resolution 2004-1: Relationship of Lake Holiday Country Club (LHCC) and Lake Holiday Estates Utility Company.
- Referred the need for additional mail stations to the Master Planning Task Force.
- Designated the General Manager as the Event Manager in the Emergency Response Plan and supported the completion of this plan with the suggested revisions to be finalized and approved at the next meeting.
- Approved the Community Policing Policy and funding for the Summit Patrol.
- Appointed Bill Penfield to the Ombudsman position. This position works with the residents, General Manager, and the Compliance Committee in resolving compliance issues.
- Elected Chuck James as Treasurer of the Board.
- Chuck Brewer, LHEUC President, reported the resignation of Frank Maphis from their Board, and the election of officers: Chuck Brewer, President, Joe Marcus, Vice President, Mike Perry, Secretary, and Heinz Gunther, Treasurer.
- Established March 16, 2004 as the cutoff date for receipt of resumes for the vacancy on the Lake Holiday Estates Utility Company.

- Agreed to negotiate further with Lake Holiday LLC on the right of first refusal for LHCC owned lots, and the sale/exchange of lots for work on the clubhouse.
- Approved in concept to move ahead with exploring a Community Development Authority for the purpose of getting bond money for infrastructure improvements.
- Scheduled a Master Planning Task Force meeting for Saturday, March 13 at 10 a.m.

The Architectural Committee is looking for persons to supplement the work of the committee in reviewing construction sites when the workload is heavy. If you have a background in architecture, landscape design, or engineering, and could devote some time to assisting the committee, as needed for new construction site review, please contact Chuck James at 888-4655. The only requirement of the work would be to become familiar with the Initial Construction Guidelines and have an interest in working with lot owners in getting started on their homes. This work is a good opportunity to serve your community without having to make the commitment to committee membership.

### **The President's Report February 2004**

#### February Ice Storm:

First, I want to express my appreciation to all those property owners who actively looked out for their neighbors during the recent power outage. I have heard of numerous gestures of caring and compassion. This is what community is about. Thanks! The ice storm we experienced earlier this month tested not only the public utilities but also our ability to respond as a community to meet the various issues that resulted from a massive power failure. We are working diligently to review and approve an Emergency Response System for The Summit. A first draft of the plan will be considered as part of the February 24 Board meeting. Jim Traynor, Board Member-at-Large has been providing the leadership for this project. The final plan will significantly improve our ability to respond to community emergency situations and will ultimately improve the communication with property owners and public officials.

#### Another History Lesson The Summit Golf Course:

As a follow-up to a history article last month written by Dolores Smith, Board Member-at-Large, Dolores has written another history of The Summit Golf Course. This report is provided as an addendum to the President's Report this month. We hope these brief reviews of history will help property owners better understand our past. Thanks again, Dolores! A history of the Lake Holiday Estates Utility Company is under development.

#### Update Frederick County Sanitation Authority:

The feasibility study authorized by the Frederick County Board of Supervisors to review the water and sewer service of Lake Holiday Estates Utility Company (LHEUC) is proceeding. They will not have a report for the Lake Holiday Country Club (LHCC) Board of Directors and LHEUC Board until after their Board meeting on March 23, 2004.

#### Financial Management Task Force Projects:

There are a number of issues that have been referred to the FMTF for review and subsequent recommendations to the LHCC Board. These include:

1. The Vice President and President have been in dialogue with the Virginia Municipal League/Virginia Association of Counties (VML/VaCo) related to a potential bond opportunity for funding infrastructure improvements in LHCC. The meetings so far have been very supportive and promising. We have asked the FMTF to develop a 10-year financial pro forma based on the projected growth scenarios provided by Lake Holiday, LLC. This could provide a significant opportunity for funding capital projects within LHCC. My appreciation is extended to Chris Allison for all the leadership work on this project. Chris and I have met with Gary Dove, our representative to the Frederick County Board of Supervisors to seek his support for establishing a Community Development Authority. The FMTF has been asked to develop this project further with Frederick County officials and provide a recommendation to the LHCC Board of Directors. We have requested a recommendation from FMTF by the April meeting.
2. The FMTF has been asked to review the current balance sheets for LHCC and LHEUC related to the LHCC asset value for LHEUC and the LHEUC balance sheet related to the current booked LHEUC liability to LHCC. The external auditors have asked the Board to consider an adjustment to the balance sheets for both LHCC and LHEUC. We anticipate a recommendation from the FMTF by May.
3. The expenditure by LHEUC for water and sewer expansion work in 2003 will be reviewed by the FMTF to determine how much of that cost should be reimbursed by LHCC. The Board has reviewed Resolution 2004-1 and will be asked to approve the resolution on February 24. This resolution defines the scope of financial responsibility for LHCC and LHEUC. In summary, LHEUC is responsible for operation and maintenance of the water and sewer system and LHCC is responsible for expansion of the water and sewer system. The LHCC Board, in collaboration with G. W. Clifford and Associates, our engineering consultant and Juan Cardenas, our legal counsel for real estate issues, will serve to interact with Lake Holiday, LLC related to water and sewer expansion issues.
4. The FMTF has been asked to develop a scope of work and solicit requests for proposals from local CPA firms for the purpose of conducting our annual external audit of both LHCC and LHEUC financial records. These auditors will replace the currently engaged auditors. We are asking for this work to be completed by May or June 2004.
5. The FMTF, in collaboration with the General Manager will be evaluating the future accounting services. They have been asked to review three different scenarios and develop a cost analysis for each:
  - a. Continue the accounting function as currently provided by CMC
  - b. Move the accounting function into the management office
  - c. Contract with a local accounting firm for these services

We have asked for this work to be completed and a recommendation to the Board by the end of April.

As you can see the scope of work for the FMTF is large and is significant related to our future costs of doing business, which are directly related to the costs borne by property owners through assessments. I am asking the FMTF to work diligently as stewards of our community resources to provide the best possible recommendations for Board consideration. If you know of anyone who has expertise in accounting practices or financial management we would welcome them submitting a letter of interest to serve on this important Task Force. Interested candidates should write to the Management Office, Attention: Frank Heisey, President.

#### E-1 Grinder Pump Policy:

A joint Task Force composed of members from the LHEUC and LHCC Boards of Directors is developing an E-1 Grinder Pump Policy for consideration by the LHCC Board of Directors. E-1 Grinder Pumps are pumps that move sewage from a home at a low

elevation to a higher elevation for connection to the sewer main. We have engaged legal counsel to guide this process and anticipate a recommendation to the LHCC Board in March. Kris Tierney has been chairing this Task Force and I extend my thanks to him for this work.

#### Lake Holiday, LLC Issues:

We have been actively working through our attorney, Juan Cardenas, to provide feedback for the revised conditions for a Development Agreement between LHCC and the developer, Lake Holiday, LLC. We have made significant progress and anticipate a revised Development Agreement in the next few weeks. A task force chaired by Chris Allison, Vice President, has been diligently reviewing the revised Declaration for The Summit and will be making recommendations for Board consideration in the next few weeks. We will then communicate this information through our attorney to Lake Holiday, LLC.

#### Development of New Sections:

Lake Holiday, LLC has provided us with drawings for Section 10 located off of Masters Drive. Section 10 will include 115 new lots and will have 6 lots with E-1 grinder pumps for sewage. The Lake Holiday, LLC goal is to begin marketing these lots by the fall of 2004. Drawings for Section 10 are now available. The President of LHEUC, Charles F. Brewer, and I have agreed on the following plan for distribution of copies of the site drawings:

1. A copy of all new section site drawings will be distributed as follows:
  - a. Management Office- archive copy
  - b. LHEUC Board
  - c. G. W. Clifford and Associates
  - d. LHCC Board
  - e. Architectural Committee
  - f. Roads Task Force
2. The General Manager will be responsible for the copy distribution and for archiving a master copy of all site drawings. The Presidents of LHCC and LHEUC have also been engaged in dialogue with the Lake Holiday, LLC site engineer and our site engineer related to Section 9 development issues. More information will be communicated on this as the particulars become available. In this meeting we have restated our position that we will not approve any new areas being developed and connected to our water and sewer system until we have a fully negotiated Development Agreement.

#### Resignation:

Tom Wallace has resigned as Treasurer and Chairperson of the Financial Management Task Force (FMTF). The LHCC board will be asked to appoint a new Treasurer and Chairperson for the FMTF as part of the agenda on February 24, 2004.

Again, thanks for your support. Please do not hesitate to communicate directly with me should you have issues that need our attention. My email address is fhlhcc@aol.com.

Respectfully Submitted,

M. Frank Heisey  
President

### **A HISTORY OF THE SUMMIT GOLF COURSE**

The developers of the first nine holes of the Summit Golf Course were Donald Lee Bayliss, Carl Eugene Bayliss, and Lon Harold Moss. A newspaper article, which appeared in the Northern Virginia Daily on September 1, 1971, states, "A design and construction contract for the first nine holes of the planned 18-hole golf course has been awarded to Richard Watson, golf course architect, of Lincoln, Nebraska."

These nine holes of the golf course remained the property of the developers operating under the name of Lake Holiday Estates, Inc., until July 21, 1977, when a foreclosure sale was held in front of the Frederick County Courthouse. The highest bidder at that sale was Independence Mortgage Trust, and all of the property at the Summit owned by Lake Holiday Estates, Inc.--including the golf course--was deeded to IMT on August 21, 1977.

Following the foreclosure sale to Independence Mortgage Trust, the property owners association oversaw the management of the golf course as well as the maintenance of the common areas and amenities, and IMT paid LHCC approximately \$5,000 per month to maintain and manage those facilities. However, in 1981, IMT advised LHCC that it would no longer pay monthly fees for this purpose. As a result LHCC filed a lawsuit against IMT, which resulted in a Release and Settlement Agreement on June 1, 1984. One of the provisions of that Agreement was that LHCC be given a deed for the first nine holes of the golf course and an option with regard to the second nine holes.

By Deed dated December 31, 1984, and recorded in Deed Book 590, at Page 547, Independence Land and Capital, Inc. (successor in interest to IMT Properties, Inc.) conveyed to LHCC the two parcels comprising a nine-hole golf course, containing 67.8 and 38.0 acres. By Option Agreement dated December 31, 1984, and recorded in Deed Book 590, at Page 540, Independence Land and Capital, Inc., agreed that LHCC would be conveyed 101.25 acres, providing LHCC comes up with a definitive plan for the development of the second nine holes of the golf course within one year and that all work on said golf course be completed within four years.

A Special Meeting of the members of Lake Holiday Country Club, Inc. was held at the Lee Jackson Best Western Inn and Restaurant on February 9, 1985, at 2:00 P. M. The notice of the meeting stated it was for the purposes of (1) to elect a Board of Directors; (2) to consider the approval of a Release and Settlement Agreement settling the litigation involved in the case of Lake Holiday Country Club, Inc., v. Independence Land and Capital, Inc., pending in the United States District Court for the Western District of Virginia, which settlement agreement has been previously approved by the Board of Directors of Lake Holiday Country Club, Inc., a copy of which is available at the office of the corporation; and (3) to transact such other business as may properly come before the meeting. At that Special Meeting Jack Ireland, Chairman of the Golf Committee, made a report about the golf course as follows: "Mr. Ireland went on to state that there has been a lot of conversation about the second nine holes for the course. The Trust is willing to give us approximately 100 acres for the second nine holes as well as the existing nine holes enabling us to have an eighteen hole course. The contingency being that we must present a plan to them within a year showing the lay out of the course, the means of financing the building of it, and a way of constructing the second nine holes. The course is to be completed within 3 years at which time The Trust will deed the land with the new nine holes completed to the Country Club. None of the yearly assessments will be used towards the building of the 18 hole course, and the completion of it will enhance the value of property at The Summit." It would later be contended that the approval of the Release and Settlement Agreement at this meeting approved the plans for the golf course, which followed. (See the minutes of the Board of Directors meeting on September 7, 1985.)

The minutes of the meeting of the Board of Directors of LHCC held on March 30, 1985, reflect that Mr. Simms reminded the directors that LHCC had one year to get plans finalized for the second nine holes of the golf course. He stated that one suggestion he had received was that a group of members get together and form a new corporation. LHCC would then sell to the new corporation the first nine holes for \$1.00. The new corporation would sell 250,000 shares at \$1.00 per share and then borrow 50 per cent more on the value of the first nine holes to build the second nine holes.

The minutes of the LHCC Board meeting on July 13, 1985, reflect that Mr. Dickinson was proceeding with work on setting up the new corporation and that he had indicated that there might be problems if stock in the new corporation was sold to more than thirty people. There was also some question as to whether this plan would have to be submitted to the property owners for approval. Mr. Simms stated that they would have to accept this plan or face very high dues if we lose the land to The Trust for them to do with as they wish.

The minutes of the LHCC Board meeting held on September 7, 1985, state, "Mr. Simms informed the Board that he had sent an acceptance letter and a contract to Ault, Clark and Associates to begin work on the second nine holes of the golf course at the cost of \$25,000. Plans have been set up so that the course will be playable in 1987. Mr. Ireland asked if Mr. Dickinson had advised whether we have to get the property owners to approve it. Mr. Simms said Mr. Dickinson said that was all covered at the Special Meeting when they approved the whole agreement with the Trust."

The minutes of the LHCC Board meeting held on November 9, 1985, reflect that the plans for the second nine holes of the golf course were reviewed before the meeting, that the Board was waiting for Mr. Ingram to survey and stake out the course, and that the Trust had agreed to the plans submitted two and one-half months earlier. Dr. Grove asked if the golf course was going to be a separate identity from the country club, and Mr. Simms answered "yes." He also stated that the goal for the cost of total completion has been set at \$300,000 and the deal with the Trust states as soon as a letter is received from Mr. Ault saying the second nine holes of the course is completed, the Trust will deed it over to the new corporation.

By Deed dated December 9, 1986, and recorded in Deed Book 633, at Page 676, Lake Holiday Country Club, Inc., conveyed to The Summit Golf Club, Inc., two certain parcels of land containing 67.8 and 38.0 acres, which had been conveyed to Lake Holiday Country Club, Inc. It is my understanding that no consideration was paid to LHCC by The Summit Golf Club, Inc., for the conveyance of the first nine holes of the golf course. (See the minutes of the Board of Directors meeting held on March 30, 1985.) Carl Simms signed the deed as President of LHCC.

By Deed dated January 20, 1987, and recorded in Deed Book 648, at Page 435, Independence Land and Capital, Inc., (successor in interest to IMT Properties, Inc.), conveyed to The Summit Golf Club, Inc., those five parcels of land totaling in the aggregate 101.25 acres, and being more particularly described on a plat dated December 31, 1984, and recorded in Deed Book 590, at Page 540. This property is the additional nine holes of the golf course property and was deeded directly to The Summit Golf Course, Inc. It is my understanding that Carl Simms and the Board of Directors of LHCC decided that LHCC did not have the money necessary to complete the second nine holes of the golf course within the time permitted by the Option Agreement. Therefore, The Summit Golf Club, Inc., was incorporated with Carl Simms and his brother being the principal stockholders. Also included among the stockholders were approximately twenty-five property owners. Mr. Simms as President of LHCC and also as President of The Summit Golf Club, Inc., contacted Independence Land and Capital, Inc., and made arrangements for this property to be deeded directly to The Summit Golf Club, Inc.

On February 27, 1998, Alan Bloomingdale and Richard Keister (two property owners) filed suit in the Circuit Court of Frederick County, Virginia, against The Summit Golf Club, Carl Simms, and Lake Holiday Country Club, in Chancery No. C98-62, alleging fraud in the conveyance of the first nine holes of the golf course from LHCC to The Summit Golf Club, Inc., and the second nine holes from Independence Land and Capital, Inc., to The Summit Golf Club, Inc. An Amended Bill of Complaint changed the complainants to Lake Holiday Country Club, Inc., Alan Bloomingdale, and Richard Keister, since neither of the property owners owned property at the Summit in 1987 when the transfer of the golf course property took place. At the trial of this case the Court found that the statute of laches (similar to the statute of limitations) applied and the golf course would remain the property of The Summit Golf Club, Inc. This case was appealed to the Supreme Court of Virginia, which refused to set aside the findings of the lower court.

Prepared by: Dolores Smith, LHCC Board Member at Large  
January 2004

### **Fire Screens**

The Deeds of Dedication for all sections of The Summit clearly define the requirement to have fire screens on all chimneys. The use of wood burning appliances is permitted providing that chimneys have a fire screen affixed to the top of the chimney to prevent hot ash and embers from being discharged into the surrounding trees and vegetation. The biggest threat to our community is wildfire, either man made or from natural causes.

### **Support Group for Families with Aging Parents:**

Would you be interested in joining a support group to deal with issues of aging parents? If so, call Harriet Smith at 888-3783 for plans for a group that will be forming in early April.

### **Safe Boating Program**

Winchester Park and Recreation will host two Safe Boating courses at the War Memorial Building in Jim Barnett Park. The dates are Sunday, March 28th and Saturday May 22nd. Hours for each class are 9:00am to 5:pm with an hour lunch break. Pre registration is required and class size is limited to 30 students on a first come basis. Call 662-4946 to reserve a seat for the class.

**Ladies Coffee Potluck Dinner** Saturday, April the 24th at 6PM.

### **March Calendar**

- 1 -Town Hall Meeting 7-9PM
- 2 - Access & Safety 7PM
  - Rules TF 7PM
- 4 - Special LHCC Board Meeting - Deeds of Dedication review 7PM
- 10 - Financial TF 7PM
- 11 - Lake Committee 7PM
- 13 - Master Planning Task Force Meeting 10AM 12PM
- 15 - Arch Committee 7PM

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- 17 - LHEUC Board Meeting 7PM
- 18 - Ladies Coffee 10AM - 12PM
- 23 - LHCC Board Meeting 7PM
- 30 - Rules TF 7PM

**SUBMISSION DEADLINES** - All materials must be received no later than 22nd of each month. Members' suggestions and thoughts reflect the diverse needs, issues, and interests of our community. Not sure your idea or article is appropriate? Send it anyway. Not a writer? Don't worry. Call with your idea anyway. Just email or send what you've got and let the editor work with it. You may see the edited article and approve it before publication.

**ADVERTISING IN THE "SUMMIT NEWS"** - Rates for business card size ads

\$20.00 for one issue --- \$15.00 per month for 6 issues --- \$10 per month for 12 issues

WHERE/HOW TO SEND CONTRIBUTIONS - Submit articles, ads, announcements, calendar items and other written contributions directly to: officwlhcc@adelphia.net or mail to LHCC office.

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