

**DAUPHIN ISLAND PROPERTY OWNERS ASSOCIATION**  
**Minutes of the October 8, 2009 POA Board Meeting**

**October 11, 2009**

**PRESENT:**

William H. (Bill) Harper, President  
 Bruce Jones, Vice President  
 Bruce Thompson, Treasurer  
 Glen Coffee, Secretary  
 Robin Linn  
 Jay Minus  
 Jackie Gaines

**ABSENT:**

Frank Leatherbury  
 Charles Gaba

**Call to Order:** After establishing that a quorum of the Board of Directors was present, the meeting was called to order by Bill Harper at 6:07 pm.

**Approval of Minutes:**

The proposed minutes of the September 19, 2009 meeting were discussed. Bill Harper expressed concern that the minutes provided too much detail and Jay Minus offered a number of specific comments. Glen Coffee agreed to revise the minutes to reflect the specific comments received and requested that a mark-up of the minutes be provided showing the level of detail that others believed should be adequate. Approval of the September 19 minutes was tabled until the revised minutes are provided for reconsideration prior to the next monthly meeting.

**Treasurer's Report:** Bruce Thompson reported on the DIPOA's assets as of October 8, comparing them to the figures for September 19:

	<u>9/19/09</u>	<u>10/8/09</u>
<b>A. Bay Bank</b>		
1) Operating Balance	\$ 11,182.40	\$ 45,265.69
2) Money Market	\$ 45,000.00	\$ 45,000.00
3) Scholarship Fund	\$ 33,823.00	\$ 33,855.33
<b>B. Merrill Lynch</b>		
1) Trust	\$ 1,390.00	\$ 1,395.00
<b>C. Wachovia Securities</b>		
1) Operating	\$ 313,689.00	\$ 313,208.00
2) Trust	\$ 438,465.00	\$ 402,304.00
3) West End Beach Restoration	\$ 16,574.00	\$ 16,574.00
<b>Total</b>	<u>\$ 860,129.20</u>	<u>\$ 857,603.02</u>
<b>Net Change</b>		(-) \$ 2,526.00

	<u>9/19/09</u>	<u>10/8/09</u>
<b>Membership Dues</b>	\$ 75,050.00	\$ 80,750.00
<b>Royalty Income</b>	\$ 20,876.94	\$ 23,214.53
<b>Beach</b>	\$ 3,389.00	\$ 3,522.00
<b>Rent</b>	\$ 3,100.00	\$ 3,600.00

The following major points were made:

- The net value of the POA's financial assets experienced a third straight month of decline (-\$20,834.12 for July, -\$23,117.62 for August, and -\$2,526 for September).
- Bill reported that the decline in the POA's financial assets is partially related to a continuing reduction in value of the gas royalty payments being received.
- Voluntary membership dues received from the membership now totals \$80,750.00. Since the last meeting, \$5,700 of dues were received which indicates an additional 57 members paid their dues. The total number of property owners that have submitted dues increased to 808, up from the 751 reported at the last meeting. Bill Harper stated that another mailing would be made soon in an attempt to soliciting additional members to pay their dues. Lastly, Bill stated that approximately 1,100 members paid their dues last year.

The Treasurer's Report was accepted by the Board.

#### **Committee Reports:**

##### **Operations Committee:**

1. **Golf Course:** Jeff Collier provided the following report.

- Play in September 2009 greatly exceeded that of September 2008. Jeff said September 2008 play was affected by Hurricanes Gustav and Ike.  
September 2008: Members - 93      Non-members - 148  
September 2009: Members - 142      Non-members - 344
- Snowbird letters were mailed to approximately 200 potential family/individual members. Although the "snowbirds" are anticipated to begin arriving before the end of December, peak "snowbird" season is traditionally extends from mid-January through March.
- One of the course's two 75 HP irrigation pumps is in the shop for repairs. Preliminary information indicates the problem is related to a short in the motor, with the pump not being damaged.
- Golf course staff will mow Jeffries Park on Friday (9 October) with the bush hog.
- The annual evaluation of employees was completed the week of September 28.
- Charles Yarbrough reported that he had obtained a lease/purchase price of \$170/month for a roller to smooth the greens to enhance putting. The Board voted unanimously to obtain this piece of equipment under a lease/purchase arrangement to determine how well it improves the quality of the greens.

**2. Budget:** Jackie Gaines pointed out the need to obtain and provide to the Board monthly Profit & Loss (P&L) Statements prepared by the POA's accountant. Bruce Thompson said P&L Statements are developed by the accountant, but they are usually almost two months behind the financial information presented at each meeting. Jackie emphasized the P&L information would be useful in monitoring how well the POA is complying with the annual budget.

**3. Beach Clean-up:** Bill Harper stated that with the loss of summer help, cleaning the POA beaches was more difficult. He made a request that someone having a 4-wheeler volunteer it for use in helping to clean the POA beaches.

**4. Contract for Club House:** Bill Harper provided a copy of a proposed 2-year lease developed by Penny Postlethwait to continue her Magic Moments Event Planners business in the Club House. Glen Coffee pointed out that the Payment and Deposit clause in the lease did not clearly state the payments the POA would receive. Bill Harper suggested and the Board agreed to extend the existing lease through November and to consider the lease at the next meeting and whether other entities should be allowed to bid on the Club House. Penny stressed the need for the Board to reach a decision soon because of the number of bridal events interested in reserving the building for next year want to be sure that it will be available.

**Architectural Committee:** Robin Linn reported that only one of set of plans for a residence on Oleander Street was reviewed and approved.

**Volunteer Committee:** Jackie Gaines discussed his proposal to pursue this month improvements to the Club House kitchen. He said he already had some people volunteer to help and requested others to do so as well. His goal is to make the building more accessible to and used by the POA membership.

**Legal Update:** The following points were made:

- Bill Harper stated that we are awaiting the Court ruling following the Class Fairness Hearing held on September 15. He stated that in addition to the Plaintiff and Defendant briefs that were submitted on September 30, several property owners had jointly signed a letter that is in the process of being submitted to the Court by Plaintiff Counsel.
- Stan Graves expressed his belief that a written legal opinion was needed from the POA Counsel to support the verbal opinion relayed by Bill Harper at the September 19 meeting that the Board's July 9 Executive Session vote to accept the 2<sup>nd</sup> Addendum did not represent agreeing to place an "encumbrance" or "otherwise dispose" of an interest in the lands held by the POA. The Board did not decide to request a written legal opinion from the POA Counsel.
- Jim Hall requested his following views be entered into the minutes. Jim attended the Fairness Hearing and witnessed the manner in which attorney Lewis S. Wiener of the Sutherland law firm referred to those members of the POA who objected to the 2<sup>nd</sup> Addendum. He wanted the Board to know of his lack of appreciation for the "degrading

and demeaning” manner in which that member of the Plaintiff Counsel Team attacked our POA members.

**Communications Committee:** Bill Harper reported that work on updating the POA website has progressed to the point that the involvement of someone more proficient in this type of work is needed. Bill has discussed this work with Jan Anderson and will obtain an estimate from her to complete the website update.

**Recreation Committee:** Bruce Jones reported on the October 6 survey that he, Bill Harper, and Jackie Gaines conducted of five POA park sites that are proposed for improvements. The recommended improvements and their associated costs are summarized in a handout that is attached to these minutes (see Attachment 1). Glen Coffee suggested that we talk with the property owners that neighbor these parks (particularly Jeffries and Lafitte Bay) to see if they have any concerns that should be addressed as details of the proposed improvements are finalized. Jack Gaines voiced concern that the Jeffries Park site was large enough (estimated at 5 acres) to accommodate parking and that parking should be included in any improvements.

Jackie Gaines asked where the funds to pay for the identified improvements would be obtained. Bill Harper stated the former scholarship funds would be used. Jackie disagreed and referred to the minutes of the August 13<sup>th</sup> POA meeting where it was recorded the Board voted to discontinue the Scholarship Fund and to move the money into the Wachovia Trust Fund. After some discussion, the Board agreed the former Scholarship Funds would not be used to pay for the improvements and maintain them in the Trust.

#### **Old Business:**

**1. E-mail list:** Bill Harper reported that the new POA e-mail list has been tested and two lists have been developed from it: (1) those members that only want to receive official POA business disseminated by the Board; and (2) those members that want their addresses shared with other members of the POA that share information relative to the POA and/or Dauphin Island. A copy of the list of the secondary category has been provided to Stan Graves.

**2. Executive Session Minutes:** The issue of whether minutes should be prepared for Executive Sessions and made available to the members was again discussed. Glen Coffee reiterated his position originally stated from the September 19 meeting that the POA Constitution clearly requires minutes be prepared of all meetings and that all minutes are to be made available to the members. During the ensuing discussion, the need for By Laws was again raised which could provide specific operational guidance to record the outcome of Executive Sessions that deal with personnel, contractual, and similar sensitive issues.

**3. Fish Camp Boat Launch Sites:** Bill Harper provided an update on the accessibility issue of the boat launch at the Fish Camp development to POA members. He reported that the POA Counsel had been directed to write a letter to the Fish Camp Property Owners Association informing them that their proposal to allow POA members to use the boat launch at an annual fee of \$1,800 per owner is unreasonable and appears to be intended maintain the ramp from private use which was not the intent of the re-zoning negotiations when the development was approved.

## **New Business:**

**1. Dr. Scott Douglas' September 28 Presentation:** Bill Harper summarized the key aspects of Dr. Douglas' presentation of alternatives to restore Dauphin Island's Gulf beaches options at the September 28 Town Meeting. Dr. Douglas' preliminary recommendations favored two options: (1) beach renourishment; and (2) an improved method to bypass sand dredged from the Mobile Outer Bar Channel (MOBC) to the west (i.e., deposit the sand in 15 feet of water instead of 30- to 40-foot depths). Two immediate engineering needs involve: (1) conducting a bathymetric survey to determine the quantities of sand that are needed; and (2) conducting a search of nearshore underwater areas to develop an estimate of the volume of suitable sand occurring within a cost-effective distance for transport to the Island's beaches. Discussions will be needed with the Corps to pursue a change in the present dredging and disposal practices for the MOBC dredging operations. In addition, appropriate environmental investigations also need to be initiated. Jeff Collier stated that a second presentation will be scheduled.

**2. Dauphin Island Foundation Request:** Mel Lucas, Chairman of the Dauphin Island Foundation, made a presentation in connection with the submission of an undated letter from the Foundation. The Foundation requests the POA parcel located between the water tower and the Town Hall building be provided on which the Foundation would construct a community center that would then be turned over to the Town to operate and maintain. When queried about the scope of the proposed center, Mel was unable to provide specific information. Mel was informed that the POA was not prepared to consider the matter at this time and that he should report back when the Foundation had the firm finances for construction and a plan for the use of the proposed community center.

**3. Legal Fees:** Jackie Gaines opened the discussion by providing a handout (Attachment 2) showing that the POA paid \$183,412.21 in legal expenses for the period January 2007 through August 2008. Assuming the average cost trend of \$5,700/month continues unabated through the final four months of 2009, the legal costs could eventually increase to over \$206,000 as shown in Attachment 2. These costs do not reflect the costs to settle the ongoing Corps lawsuit that are estimated by the Plaintiff Attorneys to be in the range of \$140,000. Jackie concluded that the Board needs to pursue actions to control legal expenses.

Glen Coffee then provided the attached 9-page spreadsheet that lists Board Counsel charges received over the period January 2008 through August 2009. Excluded from the spreadsheet are charges performed during this period for POA activities that were clearly of a legal nature and required an attorney to perform. For organizational purposes, the included charges were assigned to one of five categories: (1) efforts seeking public funding - \$407.00; (2) contacts with Congressman Bonner's office - \$2,368.00; (3) contacts with Town of Dauphin Island lobbyist Rodd Grimm - \$22,172.77 (a portion of those charges occurred in connection with multiple activities performed on some of the 75 days in which contacts were reported); (4) activities which appear to have been related to the Town and should not have been charged to the POA - \$7,751.50; and (5) activities performed in connection with the Corps lawsuit - \$12,644.50. The cumulative charges totaled to \$45,343.77. The discussion that ensued questioned whether it was appropriate for the POA Counsel to have been involved in many of these activities and whether

the actions could have been performed by a member of the Board. In addition, the question was raised as to whether specific charges should have been made at all for certain activities that could have been accomplished as an interested member of the POA which Board Counsel also is (i.e. contacts with Congressman Bonner, specific activities for the Town, etc.). It was also questioned why the POA was incurring costs from the POA Counsel when a specific group of attorneys had been retained to serve as Plaintiff Counsel in the Corps lawsuit. In an effort to control future legal expenses and to assure that future Board Counsel work is appropriately directed, Glen offered Attachment 3 which contains seven specific recommendations for consideration by the Board. The Board agreed to consider the information and discuss it at the November meeting.

To control future costs, Jackie Gaines suggested that all bills in the amount of \$500 or greater (with the exception of labor costs) be provided to the Board for approval. Under the current system, Board members do not approve invoices when they are received and checks are signed by the POA accountant, with no Board member approving the checks for payment.

**4. Dauphin Island Water and Sewer Authority:** Meril McPhearson made a presentation on ongoing activities of the DIW&SA to improve the quantity and quality of water produced for the Island. He included a history of how the DIW&SA evolved over the years from its origination as an early element of the POA. The DIW&SA paid off the promissory note to the POA this year. As a result, the DIW&SA will soon suggest specific modifications be made to the covenants that were attached to that note. Meril also described ongoing efforts to upgrade the water production, treatment, and delivery facilities that should double the capacity of the plant to match previous improvements made at the wastewater treatment plant. The DIW&SA has received a \$6.3 million “stimulus” loan, \$3.6 million of which will be forgiven and treated as a grant. The remaining \$2.7 million will be used to add the new well on school property to the system, build a new treatment plant, and construct new main lines. The improvements will also increase line pressures that should benefit fire protection. At least 21 trees will have to be removed to accommodate the improvements, with the DIW&SA planning to plant 4 trees to replace each tree removed. Work on the improvements is scheduled to begin in October and are targeted to be completed by September 2010. He stated these improvements should sustain Dauphin Island’s water needs for many years into the future.

**Next Meeting:** It was agreed that the next monthly Board Meeting would be held on Thursday, November 12, at 6:00 pm.

**Adjournment:** The meeting was adjourned at approximately 9:00 am.

/S/

Glen Coffee  
Secretary

# DIPOA PROPERTIES SURVEY/PROPOSAL

OCTOBER 6, 2009

Audubon St. Park: This small park is in good shape. It sits on Confederate Bay. Grass is cut regularly, bulkheads look fine, but they need back-fill.

Planned improvements: Fill gap with crushed concrete, spread with bobcat. Est. cost: \$540

Forney Johnson St. Park: A nice little neighborhood park on Pirates Cove. Half is bulk headed, with the rest a nice sandy beach. Perfect for kids. Grass is cut by contract.

Planned improvements: Use pavers or timbers to block trailer access. Install signs. No cost—materials on hand.

Jeffries Park: One of the larger park properties we have. Six acres, and 750 feet on Little Dauphin Island Bay. 200 feet of bulkhead have been repaired. The rest is in bad shape. Property needs grass cutting. Debris needs removal.

Planned improvements: Remove trash pile. Repair remainder of bulkhead using crushed stone and leaving kayak launch gaps every 100ft or so. Install rock driveways into the park from each entrance. Est. cost: \$50,000

Enhancements under consideration: Build boat launch ramp with rock turning area but NO Trailer Parking. Est. Cost: \$7,000

Salt Creek Park: Perfect for kayak launching. Needs cleaning and gravel for the entrance.

Planned improvements: clean up and install needed gravel. Est. cost: \$600

Lafitte Bay Park: Looks great. Grass is cut regularly.

Enhancements under consideration: Build small boat launch and gravel driveway from street. NO Trailer Parking. Est. cost: \$4,000

**Attachment 1**

Based on spread sheet that the DIPOA office put together my numbers a little low, due to the fact we had two lawyers performing different functions. These totals are from their offices not the P & L's. Brady is one and Laurendine is the other.

2007	Total	\$81,611.00
2008	Total	\$39,208.91
2009	Total	\$62,592.30
	Grand Total	<b>\$183,412.21</b>

note: this does not project out the last 4 months of 2009.

If you do this Grand Total is **\$206,338.73**

**Attachment 2**

## **Recommendations for Management of DIPOA Counsel Activities**

1. Unless otherwise directed by the Board, Counsel shall restrict all future activities to: (1) providing legal advice when requested by the Board; (2) preparing legal documents when requested by the Board; and (3) conducting legal researches on specific issues as requested by the Board. Work of counsel shall not to be directed by a single Board member unless such work has been approved by a vote of the entire Board.
2. For activities that may require periodic and continuing actions on the part of counsel (i.e. activities performed in connection with an ongoing lawsuit), a monthly report shall be provided to the Board documenting the actions performed. The report can be prepared from the monthly bill submitted for compensation and shall support the charges in the bill.
3. Counsel shall make no further contacts with political entities on behalf of the Board or as a representative of the DIPOA (i.e., Congressional representatives, members of the State legislature, Mobile County commissioners, or the mayor and members of the Dauphin Island Town Council). Should it be appropriate for counsel to be involved in such contacts, counsel's participation shall be directed beforehand by a vote of the Board, and at least one Board member should also participate in any contacts with a report being made to the entire Board.
4. Counsel shall have no further contact with any of the Town of Dauphin Island's elected officials, Town employees, paid lobbyists, hired consultants, or consultants seeking contracts with the Town. This includes telephone calls, e-mail messages, or meetings. Should the contact(s) be initiated by any of those entities representing the Town's interests in any capacity, counsel shall immediately refer those individuals to the President of the DIPOA or the appropriate member of the Board responsible for specific activities within the DIPOA.
5. Counsel is to have no future involvement or participation in any work undertaken by the Town of Dauphin Island or considered to be within the overall responsibility of the Town to accomplish. The Town is responsible for obtaining its needed legal advice and representation and for providing appropriate compensation for such services and not the DIPOA. Should there be an unclear distinction between the respective interests of the Town and DIPOA, all such issues shall be brought before the entire Board for a decision to be made regarding the appropriateness for the DIPOA to be involved.
6. Counsel shall not participate, unless otherwise directed by the Board, in any activity that falls within the purview of an area of effort assigned to specific Board member(s) (i.e. CIAP, development of parks, etc.).
7. Any issue not specifically addressed by the above provisions shall be brought before the entire Board for clarification before counsel performs any work. Should the Board reach an affirmative decision, the scope of such involvement shall be determined by the Board.

### **Attachment 3**