



# HIGHTIDINGS

THE OFFICIAL NEWSLETTER OF THE FOREST BEACH OWNERS ASSOCIATION, INC.

[www.forestbeachassociation.com](http://www.forestbeachassociation.com)

FALL, 2012

## Annual Meeting

Our next Annual Membership Meeting will be held on Saturday, October 13th, 2012 from 10am – Noon at Providence Presbyterian Church, 171 Cordillo Parkway, Fellowship Hall. Please plan on attending this very important and informative meeting.

1. Review of Annual Meeting Minutes from October 2011
2. Welcome and Introduction of Board Members
3. Ward 4 & Town Representative Introductions
4. Treasurer's Interim Financial Report and Previous Year End
5. Presentation of 2013 Annual Budget
6. Update on Legal Matters
7. Old Business South Forest Beach Accesses
8. New Business
9. Election of 2012 BOD Nominees (3 Positions)
10. Closing Remarks.

## CARPET IN THE DUNES – THE CONTROVERSY, AND REALITIES

This past winter your Association began the process of removing all of the industrial and household carpeting placed in the dunes and buried within the beach accesses in the Lawton Beach area of South Forest Beach. For many years residents have unrolled long strips of carpet remnants to create makeshift pathways along the walkways and beach accesses as well as through the dunes. Certainly, the many layers of carpet did make it easier for anything and everything that rolls (strollers, bicycles, wheelchairs, golf carts, etc.) to travel over the dunes and loose sand to the beach. However, none of these actions were performed with the permission of either the property owners, the Town of Hilton Head Island, or the State of South Carolina's Office of Ocean and Coastal Resource Management. In fact, carpet on the beach accesses and especially in the dunes violates both the Town of Hilton Head Island Dune Ordinance and the State DHEC/OCRM regulations. The question remained; "Who was responsible for its removal?"

The previous private property owners who owned these accesses along with the strand did not place the carpet there and felt that the Town should remove it. The Town's position was that the carpet was litter and the property owners were responsible for its removal. This stalemate lasted for many years. Now, enter your Association.

For years the Forest Beach Owners' Association has made permanently securing your access to the beach one of its top priorities. A prime example: some seven years ago a resident in North Forest Beach closed a beach access that your Association owns. The Association actually owns both the land that is the beach access and the covenants guaranteeing your access across it. One would never imagine that a neighbor would fence off and attempt to incorporate a neighborhood beach access into their own lot, would you? Well it happened! Over the course of many years the Association has secured three favorable decisions in courts of law. Having spent thousands of dollars in legal fees that we would have rather invested in the improvement of the accesses. We are still mired in the legal process of permanently reopening your beach access — despite the fact we own the dirt and the covenants say it is to be open!

Back to Lawton Beach. Your Association entered the deadlocked conversation between the South Forest Beach access and walkway property owners and the Town in hopes of preventing a similar scenario as the one mentioned above. Through several years of negotiation, your Association has managed to help all parties reach a settlement.

The private parties who owned the walkways, accesses and strand areas agreed to place all of these that are located in Lawton Beach under a Federal Conservation Easement and transfer title to the Beaufort County Open Land Trust. In part this agreement stated that the carpet must be removed and several other non-conforming encroachments must be rectified. Additionally the landowners further agreed to donate the entire 35 oceanfront acre tract to your Association, provided we abide by the terms of the Conservation Easement. The Association also helped convince the Town to take

*continued on page 2*

## **Carpet in the Dunes** *continued...*

over ownership and maintenance of the dirt roadways in Lawton Beach. A long standing sore spot among the residents due to the lack of maintenance and improvements, not only to the roadways themselves, but also the lack of proper storm water management.

Securing ownership of these walkways, accesses and strand quickly became our top priority. We could not risk having our accesses and strand sold to another private party and possibly face multiple individual and grueling lawsuits similar to the one in North Forest Beach. Acquiring the entire parcel at minimal cost was a huge win for all residents and members of the Association, even if we are burdened with the responsibility of removing the carpet. No matter who would have wound up with the ownership of the property however, the carpet would have to be removed. In the end, it's far better that your Association owns your beach accesses and strand rather than the Town or other third parties.

So now the Association is in the process of removing all of the carpet from the walkways, accesses, dunes and strand areas within Lawton Beach. Work on the unfinished accesses will resume as soon as the weather cools off. Improvements will be made to the paths in accordance with the provisions of the Conservation Easement and the Town Dune Ordinances. Removing the carpet will keep us in compliance with the Federal Conservation Easement and is a stipulation of our continuing ownership of the property. There is simply no way around it, removing the carpet must be done.

While we can agree that the carpet was a very effective way of rolling things through the loose sand and over the dunes, we have to look forward and try the remedies provided under the Conservation Easement and Town and State ordinances. Raised walkways are very expensive with no set funding mechanism, so we are utilizing natural mulch to improve the accesses. Will it be as functional as the carpet used to be? We have our doubts. But we do not have another alternative at this time that will be approved by the Town and State and meet the requirements for removal of the carpet. If we follow the guidelines and remove all of the carpet and the approved remedies prove unworkable, you have our guarantee we will approach the Town and Beaufort County Open Land Trust about devising a new plan that satisfies all parties concerned. But first, we must comply with the agreement and do so in good faith.

If you wish to help us in this process, please contact us. Wet carpet full of beach sand is heavy and so is mulch. Remember it is Your Neighborhood, and we could use your help.

## **PLANNING AHEAD WILL MAKE FOR SMOOTH WATERS AFTER THE STORM**

*By: Ken Gort, Architect/Builder*

Hopefully a catastrophic weather event will never visit our Island. We once again are entering the season when natural disasters such as hurricanes, tropical storms, tornados and flooding are most likely to occur. Just imagine after a "State of Emergency" having been declared that you are not allowed to rebuild your property as it existed prior to the devastation. Preparedness is the essential key.

The Town of Hilton Head Island has enacted a procedure called "Emergency Permitting". This procedure allows the rebuilding of existing homes and businesses, including all non-conforming features, "to a state or condition that existed prior to the disaster without the necessity of a full review..." under the current Land Management Ordinance. Non-conforming property features may be its use, size, setback, a canopy, a deck, signage, buffer, parking, pool, etc. All new construction must comply with the current applicable building codes and FEMA regulations. So, while you must adhere to the current codes, certain non-conforming features may be allowed under the "Emergency Permitting" process. Changes to the Land Management Ordinance are in the process, but the final outcome is months away.

While this seems to be a blessing to those who have non-conforming site features, you have to be able to document the existence at the time of the disaster that a non-conformity existed on your property. You cannot simply go to the Town and say you had such-and-such on your property. You have to prove to them that it was there and exactly where and to what extent the non-conformity existed. Photos, site plans, architectural drawings, etc. are required to substantiate this.

The Association strongly urges its members to undertake a process to protect and document what is valuable to you, your property. There are companies available to assist you with this process if you do not feel comfortable in the undertaking yourself. They have experience in dealing with the Town's Land Management Ordinance and the various requirements that would be imposed upon you during the approval process under these trying circumstances. Now is the time to be prepared as you cannot document what existed after mother nature removes it from the land.

For questions regarding the "Emergency Permitting Process" or additional information on the services that an outside source can offer you, such as my Digital Docs Program, and/or the documentation that you need to have for the Town of Hilton Head Island to take advantage of their "Emergency Permitting" procedures, please call me at 843-384-6566 or email me at [klgort@aol.com](mailto:klgort@aol.com).

## USCB - Coligny?

On August 6th a special Hilton Head Town Council meeting was held to discuss the future of the Coligny area and our long-awaited Coligny Beach Park. As you may remember, in 1999 the Town created a TIF (Tax Increment Financing) District and used the additional tax revenues to purchase the site of the old Smokehouse restaurant and the land surrounding it. Quite remarkably, some 13 years later, the residents, merchants, and visitors to Forest Beach are still looking at an inadequately small beach parking lot surrounded by a steep ditch and a 4.5 acre, off-limits lot the Town uses to stage sewer equipment and dumpsters. Sad, but true.

Many versions of the Coligny redevelopment plans and concepts have come and gone over the years. But at this August 6th meeting the Town Council was presented with an entirely new concept for the Coligny area, and the 4.5 acre lot specifically.

The proposal was presented by Dr. Jane Upshaw, President of USCB. Dr. Upshaw proposed placing a branch of USCB's Hospitality Program in the Coligny area, and more specifically, on the 4.5 acre lot designated for our long-awaited Coligny Beach Park. The plan calls for some 35,000 - 40,000 square feet of new buildings and classrooms, all paid for through our TIF funds and other yet to be identified sources, ie. your tax dollars. The signature building for the new campus would be on the previously mentioned 4.5 acre lot.

Now don't get us wrong, having a new

college campus in our neighborhood sounds like a great concept. Maybe the influx of students would have the same effect SCAD has had on downtown Savannah? But the fact that we do not currently have a college campus in our neighborhood is not truly a problem that needs a solution.

Inadequate beach and retail parking for merchants - that's our neighborhoods biggest problem, and has been for years. There is simply not enough parking as it stands right now to adequately accommodate the needs during the high occupancy months. Adding a college campus into the Coligny mix would only exacerbate this problem. Dr. Upshaw made no mention of how to alleviate the parking problem which only led us to believe she hasn't thought this proposal through, or looked at the full impact of this plan.

No neighborhood park or playground in Forest Beach - that's a very real and tangible problem. Our nearest park is the Crossings Park on Palmetto Bay Road. We honestly challenge any Town Council member or USCB representative to push a stroller with two kids from Forest Beach (North or South) past several miles of dangerous traffic and up to the Crossings Park. See how fun that is on a summer day. But that's how we have been living for the past 13 years. Forest Beach residents and visitors deserve the

neighborhood park we have been promised.

Sure, it would be wonderful to have a satellite branch of USCB here in the Coligny area, but not at the expense of losing our only small piece of greenspace and exhausting all of our TIF funds to do so. First and foremost, the Association feels that the Town needs to live up to its obligation and promises to the Forest Beach community and use our TIF funds to build us the neighborhood beach park they have promised us since 1999. Once this has been completed the Town can consider whether they and USCB want to build a campus with whatever other monies they can jointly raise without raiding our TIF district funds.

The residents of Forest Beach have been waiting for 13 years for our neighborhood park and it is time that the Town realizes we will not be denied our neighborhood beach park. There is more than enough unused office, retail and housing space in the Coligny area, and on the south end of the Island to house many USCB classrooms and students without using this valuable green space. However, there is only one site currently available that is suitable for a park in Forest Beach. Yes, the concept of USCB Coligny is a great one, but it doesn't have to be implemented in a way that robs the residents and businesses of Forest Beach of a park. It is past time for the Town Council to deliver on their promise. We urge them to build Forest Beach a neighborhood beach park. And we hope that you feel the same way.

## LETTER FROM THE PRESIDENT *by Jack Daly*

*Dear Forest Beach Friends, Neighbors and Business Owners*

*Once again, I would like to thank you for your strong support and dues participation this past year. Despite the ongoing struggles of our over-regulated and over-assessed neighbors in the surrounding gated developments, 2012 has been another solid year of growth and improvement in the Forest Beach community.*

*In 2012 we witnessed how poor stewardship from a nearby Association led property owners into risky, meddlesome litigation resulting in millions of dollars lost in a single, humiliating legal judgment. We also observed other plantations turn their backs on best conservation practices and strip their dunes of protective vegetation in an ill-advised effort to "enhance their view and property value". The year 2012 also saw many of these gated compounds raise dues yet again and levy new, brutal assessments to help float the heavy costs of their bloated administrations as they struggle to weather the recession. Commercial centers were not immune from the economic downturn either as many merchants and shopkeepers hidden behind gates in faux boutique centers reported that their sales were down this year, yet again.*

*Friends, be thankful you live in an open neighborhood like Forest Beach. A neighborhood where your Forest Beach Owners' Association doesn't take your contributions for granted and gamble foolishly with them. A community where we proactively conserve and protect the very forest and beach that gives us our name and raison d'être. A neighborhood where participation is invited and your dues are kept to a minimum out of respect and solid stewardship. A community that flourishes while other residential and commercial centers languish in the recession.*

*Be glad you live here with us. Enjoy the natural beauty of a beach neighborhood, settled in a forest, founded with conservation in mind. Relax comfortably in your home knowing well that your neighborhood association isn't lurking on your street looking for trumped-up rules to enforce or fines to levy against you. Feel free to park your boat in your yard. Fence in your backyard for the safety of your children, have a party and park an extra car in your driveway! Your Forest Beach neighbors won't turn you in to the governing body or tattle on you. They live in Forest Beach too! They're far more likely to join you in your party, than turn against you. See the difference? In Forest Beach we live life differently than people behind gates - we actually enjoy it! That's why we chose to live in Forest Beach. Be grateful that you live among the free people of Forest Beach. Love your neighborhood and your neighbors. Life is good here.*

## FBOA Directors Listing

Jack Daly, President  
4 Myrtle LN - '15

Debbie Urato, Secretary/Treasurer  
13 Park RD - '13

Julio Picasso, Vice President  
'15

Doug Felten  
17 Bittern ST - '12

Chuck Nelson  
31 S. Forest Beach DR #37 - '12

Lena Beason  
6 Woodward AV #F-2 - '12

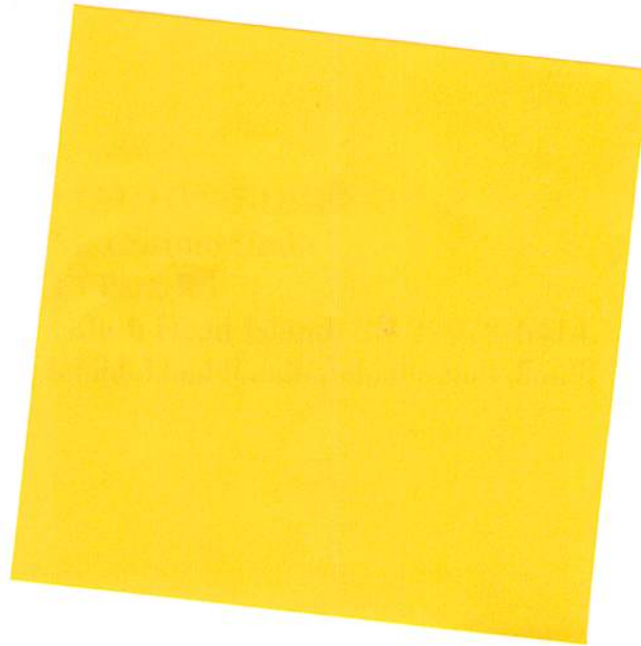
Vacant  
'14

Dr. Gabe Fornari, Past President

John Snodgrass, Executive Director  
(C) 843-684-1101 (O) 785-5565  
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## DUNE PROTECTION

How well do you know the Municipal Code and Land Management Ordinances that pertain to prohibited or regulated activities in and around the sand dunes along our beaches?

Here's a quiz to see how much you know about what is and is not allowed related to the dunes. Take a moment to test your knowledge by answering True or False to each statement below:

If you own a lot or oceanfront home ~~that~~ does not have access to the beach, you can cut a path through the dunes. T\_\_ F\_\_

You can cut sea oats to put into flower arrangements. T\_\_ F\_\_

Parking a boat in the dunes is allowable for adjacent property owners. T\_\_ F\_\_

Erecting a tent or temporary gazebo in the dune directly in front of your property is permissible. T\_\_ F\_\_

If approved by DHEC, a homeowner may construct an 8-foot wide elevated walkway across the dunes. T\_\_ F\_\_

Property owners may renourish the dunes in front of their homes at any time without a permit. T\_\_ F\_\_

You can replace an existing boardwalk without the need for any permits. T\_\_ F\_\_

The planting of vegetation or the construction of wood, sand and wire fences is not permitted. T\_\_ F\_\_

If you answered False to ALL of these questions, you scored 100% and are an enlightened and knowledgeable property owner or visitor. If you missed any, or to see all of the legally adopted ordinances, visit [www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov) and look

for LMO Sec. 16-6-305 and Municipal Code Sec. 8-1-413. Below are portions of ordinances applicable to this quiz.

Sec. 8-1-411. Permit required; damage prohibited. No person shall alter, destroy or remove any portion of a sand dune, except by obtaining a valid permit... (Items 1, 6)  
Sec. 8-1-413. Destruction of sea oats or other dune vegetation. It shall be unlawful for any person to alter, remove or otherwise destroy sea oats or any other vegetative matter growing out of the sand dunes... (Item 2)

Sec. 16-6-305. Dune Protection Standards  
2. No dune shall be leveled, breached, altered or undermined in any way by development or other human-caused activity such as boat storage,... (Item 3, 4)  
3. Access to beach areas shall be provided by elevated walkways when traversing dune systems. Walkways shall not exceed a maximum of 6 feet in width,... (Item 5, 7)  
4. Planting of vegetation and construction of wood, sand and wire fences shall be permitted. (Note that OCRM permit may also be needed.) Hard materials (other than fences) shall not be permitted without extensive scientific documentation and assurances that there are no detrimental on or off-site impacts. (Item 6, 8)

**Bottom Line:** One of the most important things to remember is that cutting or removing native vegetation, excavating soils, or developing and placing structures are all prohibited activities within the dunes. Help the Forest Beach Owners Association and the Town protect our dune system and all of the beachfront along Forest Beach, as well as the other beaches you enjoy on Hilton Head Island.