

**2023 New Year's Letter from The Enclave at Lake James HOA President  
January 6, 2023**

Hello fellow property owners of The Enclave,

I hope the new year finds you and your families well. After serving a two-year term as a Board member, including a one-year term as your current HOA Board President, it seems an appropriate time to give you a report on several topics from 2022 and looking forward into 2023, including:

- *Why the HOA annual fee went up \$100*
- *On what code enforcement issues has the HOA Board been focused*
- *Challenges ahead for our community*
- *Four Board seats open for election at the January 30th annual meeting*

**1.) Why the HOA annual fee went up \$100**

A healthy discussion is ongoing on this topic on our [Community Discussion portal](#) on FrontSteps.com. While the Board gave a few reasons for the annual fee increase in our December issue of [The Enclave 100](#) and a few more were mentioned on FrontSteps, I promised a longer explanation for the increase. Hopefully this letter will serve that purpose.

To recap, the HOA board voted unanimously to increase our annual dues \$100 a year to \$770 per lot. While the Board was convinced that an increase is warranted to meet the needs of our community, the officers of the Board were actually in favor of a slightly higher increase for 2023, but they agreed to vote with the majority of the Board on the \$100 increase. The officers believed that our long-term funds are not robust enough to meet our infrastructure's on-going preventative maintenance, potential repairs or any improvements. The Board will probably vote at its January 10th monthly meeting to release our 2023 budget before our annual meeting (the usual date of release) so owners can review the income and expenses. As always, we are happy to hear feedback from our owners on our 2023 budget.

**Income** – The primary income our HOA earns is from the **annual dues** of its members. The developer sold 69 lots since 2017 and each of those lots must pay annual dues (with a caveat as explained below). We also earn \$1,500 in road **impact fees** whenever a property owner begins construction on their primary residence.

For the past two to three years, two owners have not paid their dues. The Board, through our property management company, Empire South Association Management, has written, called and served notice on the two owners, with no response to-date. Last year, we placed liens on each of the two properties in order to secure payment of the late annual dues if and when the owners are able to pay or their lots are ultimately sold.

Also, the Developer/Declarant handed each of us a set of governing Covenants when we purchased our properties – one set for Burke County and one for McDowell County. Both the current and prior Boards were not happy with these Covenants for numerous reasons, believing they are heavily skewed in the Developer/Declarant's favor. For instance, there are several

owners who have purchased multiple lots in The Enclave. The Declarant gave each lot one vote on all HOA matters, but waived payment of annual fees beyond the first lot; therefore, the folks who own multiple lots will pay only one \$770 annual fee this year, but they will cast multiple votes at our annual meeting.

The Board has long been unhappy with these Covenants because they are written with vague language on a host of issues, such as camping, building code enforcement and other matters. One concern is our Covenants require the votes of 75% of our owners to make any changes to the Covenants, even though the North Carolina ordinance governing HOAs (Chapter 47F of the NC Planned Community Act) only requires 67% of votes to effect a change. The 2021 Board attempted to make a number of improvements to the Covenants, but despite several community meetings and much communication, the 2021 vote did not garner 75% of owners to actually vote, much less to approve the recommended changes. Nevertheless, the Board must work within the Covenants we inherited as best we can and that is what we believe we have done.

On our FrontSteps discussion group, one Enclave lot owner suggested a two-tiered system in which homeowners would pay more than vacant lot owners, but we'd need to get 75% of our lot owners to actually vote on any such change. We think that we'd also have to consider other tiers for those with only sheds or accessory dwellings, boats or RVs in addition to homes and vacant lots.

By way of annual fee comparison, The Peninsula HOA (also created by the same Developer/Declarant), located just west of us on the lake has a two-tiered system in which lot owners pay \$1,010 (\$860 dues and \$150 road reserve) and homeowners pay \$1,460 (\$860 dues, \$250 road reserve and \$350 well reserve).

**Expenses** – The Board feels it has been judicious in preparing and monitoring its budgets and spending our community funds. The only possible extravagant expense for the past two years was to spend \$2,000 to host an **annual summer get together**, which included tent rental with food and soft drinks. The 2021 event near the marina was well attended; however, the 2022 event was less so. This could be trimmed for 2023 or converted to a pot-luck in someone's home/backyard, but the Board believes this has been a great opportunity to come together as a community and for neighbors to meet each other in person. At the moment, this expense is included in the 2023 budget.

The Board carefully evaluated several **landscaping** companies in 2022 and hired a new firm to keep grass next to roadways and the community marina trimmed during warm months, mulch and tree trimming at the entrance and general clean-up (e.g. remove trees/branches from community roadways) for \$1,500 a month.

We also pay a monthly fee to Empire to **manage** billing/delinquencies, HOA bank accounts, general funds, payment of vendors, new building applications, lot owner communication/mailings, format & running monthly board meetings/annual meeting and to aid in code enforcement. In addition, the Board has presented our property manager with numerous issues and scenarios related to the previously mentioned Developer/Declarant and our vague Covenants (which are even inconsistent across the two counties in which our development is situated). Empire manages 40+ communities with most Boards meeting every other month/once per quarter and are considered fairly "low-maintenance." The Enclave Board meets monthly for one or two hours and also convenes both committee and special meetings in between. The issues we

have had to manage with a few property owners who have challenged our authority to enforce zoning/codes and to protect the value of the neighborhood have required us to call these special meetings and hire attorneys at times. As a result, we are considered a “high-maintenance” community by Empire. Despite these circumstances, we pay less to Empire than most of their other communities. The Board feels that Empire helped the 2018-2021 Boards get started and, as Board member Fred McMahan said, “taught us how to be a Board.” In the fall of 2022, Empire notified the Board that their management fees would have to increase to approach being in line with other communities they manage and to offset much of the extra work our community has required (and continues to require) in its early years. While Empire’s monthly fee increased from ~\$394 to \$551, it only jumped \$7 monthly per lot and \$0.99 for the new FrontSteps software – and those fees are *still* below what they charge other communities.

Other expenses include **insurance, state filing fees, accounting and attorney fees, taxes and electrical charges** on our common areas and marina. In short, the annual budget is pretty lean. Empire and the Board believes we need to be funding a road and infrastructure contingency fund to pay for repairs that will surely come over time. While not part of any immediate need, these expenditures *will* come and the only two possible ways to account for them will be to create a reserve fund, which is obviously funded by owners over numerous years and in smaller amounts per year, or for each lot owner to receive what is anticipated to be a larger special assessment at the time of (each) repair. This will require a capital improvement or reserve study conducted by an independent, professional reserve study company. There is not only \$0 in reserves today, but not enough within the current annual budget to even pay for such a study. Lastly, we do not have any current budget for snow removal or security.

While on the topic, one area in which the Board believes we are sorely lacking is **security**. Over the past few years, we’ve received reports from numerous property owners that uninvited guests drove down their driveways and “helped themselves” to tools, building supplies and other items in their sheds or homes/porches. A Board member discovered/confronted some local residents who did not own property within The Enclave but were fishing at our community dock and has also heard gunfire from local hunters on our vacant woods/common area. The previous Board positioned three large stones to the left of the entrance gate to deter local residents from driving their vehicles *around* our gate. They merely moved one of the stones. In 2023, we will need to get bigger stones!

For the past few months, the Board has had two members studying three different security systems that can record license plate numbers at the gate coming and/or going – one has the ability to send real-time data with immediate online availability to local law enforcement. The Board believes this – as opposed to a more expensive gate kiosk, video cameras or security booth – is the best course. We believe signs warning of the presence of this recording equipment will help as it has in similar communities that have not only found unwanted guests turn around at the gate, they’ve recorded every plate of those who enter. We hope to vote on installing such a system at our January 10<sup>th</sup> Board meeting.

– more –

## **2.) On what code enforcement issues has the HOA Board been focused**

The Board has been busy this year with many issues and agenda items, such as landscaping, communication, annual get-together, approving building applications, dissolution of the ARC after one year, etc.

The area that has consumed most of the Board's time this year is code/Covenant enforcement. The Covenants are not replete with perfect authority, responsibility or punitive powers for the HOA Board, but the one predominant demand in the Covenants with which the Board is charged and on which it's focused is "the preservation of the desirability, value and attractiveness of The Enclave." As part of that responsibility, the Board is keenly interested in what other owners and guests "view from community roads," as stipulated in the Covenants.

Board members and the ARC (before it was dissolved) visited five to seven properties that had recently been issued building permits to ensure the current construction is in line with the designs that were approved by the ARB, ARC and Board. The collective groups found issues with all but one of the properties and sent letters to the owners outlining the concerns. In each of the five or six discussions between the Board and owners, the owners agreed to mitigate the Board's concerns by removing gates, port-a-potties, water craft, trailers and RVs that could be seen from community roads.

The Board is currently in discussion with two owners whose building projects are a matter of ongoing discussion/concern due to county permit issues and/or building variances from approved plans. While our Covenants do not outline some of the aforementioned punitive powers, [The North Carolina Planned Community Act](#) does empower and govern HOAs, and allows the HOA Board punitive measures. One of those measure allows Board's to fine owners up to \$100 per day per violation "without hearing" for each day after the fifth day following the Board's decision that the owner is in violation.

For transparency afforded each and every Association member, all Board meetings are recorded. Empire posts [videos and minutes of each Board meeting](#) on the FrontSteps portal. Look inside the Accounting Documents in the "[Meetings](#)" folder.

Please know your Board members are also property owners and believe we are not only being frugal and judicious with our community resources, but also with an eye to preserving the neighborhood and its value we all bought into.

## **3.) Challenges ahead for our community**

We have a wonderful community, perhaps the last newly planned community to be developed on Lake James. Half of the property bordering the lake is state park. It still shocks me how many residents of North Carolina and adjacent states have never even heard of Lake James. It's the cleanest lake in the state and in the top 10 cleanest in the USA. It's beautiful and not overly developed. We've each invested our hard-earned dollars into property (whether to ultimately build or to sell as an investment), with some of us into upscale homes totaling into the low millions of dollars. Each of us wants to see our values rise and not fall. We want our families to feel safe here and to generate beautiful memories for decades to come.

That said, we are having to reverse decades of habits of local residents who previously were allowed to hunt, fish, camp and, according to legend, do just about anything else on our land before it was developed as The Enclave.

We will face challenges in the near future as the Fonta Flora Trail that traverses western NC is completed. At closings, we each signed an understanding of the Developer/Declarant's easement to allow the public trail to cross our common area and private properties. As the new trailhead is built on Lake James Road, it will lead to a public park adjacent to our community marina and beach. That *will require* infrastructure and monitoring – and a lot of attention from all of us – to manage and protect our interests and security. While parking for the Trail is not inside our gate, it *will be* inside our common area and we will need to monitor who is coming and going through our gate and properties in order to protect our lands and structures.

Right now, we have no budget for snow removal, gate repairs (when needed) road repairs (when needed), marina/dock maintenance & repairs (when needed), or any unforeseen expenses nor to protect certain properties that already face drainage and erosion due to runoff from community roads.

In the future, we may face noise/light pollution on the lake, roaming wildlife/pets, wildfires, droughts, climate change affecting lake water levels, termite infestations (did you know that legally you can only kill termites if you have a home on your property?) and other threats that are quite simply out of our control. The Board has enough to say grace over on matters we can control, such as helping individual owners who are learning to navigate our various state, county, Lake James and HOA overlay policies while trying to ensure the continued beauty and value of our community. We welcome your input.

#### **4.) Four board seats open for election at January 30th annual meeting**

As long as we have a quorum of owners attending or [signing a proxy](#), at our 4pm EST January 30th annual meeting we will vote to fill four positions on the Board whose two-year terms are expiring. We have new candidates for these positions, as well as several board members who would like to run for re-election.

Thank you for reading this long letter and we look forward to your input both on our [FrontSteps discussion board](#) and at the upcoming annual meeting.

Sincerely,  
Chris Schroder  
President, 2022 Enclave HOA Board