I'ON Assembly
Board of Trustees Meeting
Thursday, February 28, 2013
6:00P.M.
Executive Session 5:30P.M.
Conference Room
159 Civitas Street, Second Floor
Mt. Pleasant, SC

AGENDA

I. Call to Order

II. Homeowner Forum: Limited to One Hour

III. Approval of Minutes
- Minutes of Special Meeting of the Assembly-23 January 2013
- January Board Meeting Minutes
- Special Board Meeting Minutes-17 February 2013

IV. Review of Creek Club Litigation Status

V. Landscape/Infrastructure Report
- Review of Property Turnover Status/Record Reconciliation
- Canal Mixers
- On Street Parking Perseverance/Faye Ln

VI. Treasurer Report
- Fiduciary Insurance
- Transition of Funds
- New Collections Policy

VII. President's Report
- 228 Ponsbury Transaction
- Parking Enforcement Update
- Creek Club Availability
- Tour d'I'On Races
- Request for Expense Reimbursement

VIII. IDC Committee Report
- Moultrieville and Ponsbury Failures to Submit

IX. Amenities Report
- Waterfront Amenities Management Committee

X. Communications Report

XI. Compliance Report

XII. Community Manager Report

XIII. Adjournment

SPECIAL MEETING OF THE ASSEMBLY
23 January 2013

Thank you all for coming tonight. I'm very gratified to see that we have such a large turnout, because we're here to talk about some issues that are very significant to our community.

I am Deborah Bedell, the president of the I'On Assembly Board of Trustees. Just to clarify, the I'On Assembly is the formal name of our HOA, and the Board of Trustees is the elected body of neighborhood residents that is entrusted with managing the community's affairs. All Board members are volunteers who serve without pay.

Here tonight with me are my fellow board members:

- David Countryman is our Vice President
- Frederik Winther is our Treasurer
- Martha Morgan is our Secretary
- Our non-officer Board members are Tony Woody and Martin Hansen, as well as Jay Thompson, who is traveling on business and could not be here tonight.

We called this meeting so that the Board could have an opportunity to present to interested residents some background on the present litigation involving the Creek Club and the boating facilities there. We also felt it was important to our ability to properly represent the community's interests that we provide a forum for neighbors to share their opinions with us, as well as to pose questions about the litigation and its possible effects on the neighborhood.

A number of people, including the plaintiffs' attorney, asked that he be invited to present his case at tonight's meeting. The Board very carefully considered these requests, and ultimately we felt it was inappropriate. The plaintiffs' attorney had his own forum to present the totality of his case without contest or opposition from the other parties. We think it is appropriate for the Assembly to take the same opportunity to present our views to our own constituency, and to hear residents' opinions and respond to their questions, without the distraction of engaging in a point-by-point debate with opposing counsel.

Nevertheless, the Board, wants to be fully apprised directly of the issues and the weight and quality of the evidence. We asked our attorney to invite the plaintiffs' attorney to meet with the Board this past Sunday to present his case to us and to respond to the Board's questions. (According to the legal canons of ethics, the plaintiffs' attorney may not ethically meet with parties represented by counsel unless counsel is present.) Unfortunately, after we juggled the schedules of seven Board members and our attorney, the plaintiffs' firm was unable to make anyone available to meet with us in advance of this meeting. The Board will work to try to find another date to avail itself of a briefing.

Tonight, I'm going to offer a presentation that <u>will not challenge or contest</u> any aspect of the plaintiffs' case, but may put the entire history of these property transactions, and the way your Boards have addressed these issues, in a somewhat different light than may have previously been presented. I plan to cover

- A brief history of the transactions relating to the Creek Club property;
- A summary of the plaintiffs' complaint relating to this property, as well as progress of the suit to date;
- An overview of the Board's responsibilities; and finally,
- A statement about the Board's perspective and goals relating to this lawsuit.

At the end of the presentation, we're going to take a brief break to allow any property owner present to sign up to speak or pose questions-or to cross themselves off the speaker list in case all their concerns have been addressed. Then we will open the floor to property owners to directly address the Board. I will not be taking questions during this presentation.

Before I get into the heart of my presentation, I want to highlight two significant points that I hope you will all keep in mind as you listen:

- The Board's position with respect to this litigation is that we want everything that the Assembly is legally entitled to receive as an asset or amenity of the community. Most importantly,
- The Board will demand perpetual access to the deep water docks and the boating facilities.

As I begin, let me say that I'On is not a microcosm of our national political scene. We will not engage in slash and burn debates and mean-spirited attacks on each other.

Our mission here tonight is for us to present the facts so that all residents can be aware of them and make their own decisions. We don't want to deal in rumor and innuendo. And even if we disagree as to conclusions and goals, we should strive to remain cordial friends and neighbors.

In that spirit, I want to say at the outset that the Board has nothing but the utmost respect for the plaintiffs who brought this case, LeaAnn Adkins and Brad Walbeck. They are two individuals who have taken it upon themselves to fight for something that they believe is in the best interests of not only themselves, but also of all the other residents of this community. While the Board may possibly have a differing view from the plaintiffs on a suitable outcome of this case, nothing we say tonight is intended in any way as a criticism of them or their activity in bringing this lawsuit.

So with that said, let me go into the facts behind the history of the property relating to the Creek Club, the parking lot, the boat ramp and the deep water docks.

In the early days of I'On, the property on which the Creek Club and the Docks now stand was all owned by the developer, the I'On Company. The first lots in I'On were sold around 1998 or 1999. As we'll see when we outline their case, the plaintiffs allege that the I'On

Company made representations, as early as 1998, that upon completion of construction, that property and facilities would be turned over to the Assembly at no cost, as a community amenity. That turnover never happened, and that broken promise is what's at the heart of this lawsuit.

On February 9, 2000, 13 years ago, a document was executed entitled "Recreational Easement and Agreement to Share Costs."

There were three parties to this agreement:

- The I'On Club, listed as owner of the property (the I'On Club is privately owned by the Graham interests, is not part of I'On, and is located just off Mathis Ferry Road);
- The I'On Company, owned by the Graham family; and
- The I'On Assembly, the homeowners' association established to govern I'On, but in 2000 controlled and managed by the I'On Company. Residents did not take control of the Assembly until December, 2005.

Although there were three parties, the agreement was signed by one person, who signed three times in his capacities

- as Manager of the I'On Company,
- as Manager of the I'On Club, and
- as President of the I'On Assembly-appointed by the developer, the I'On Company.

Clearly, this was not exactly an arms' length transaction. It's clear from the terms of the document that if three independent parties had been negotiating this easement, some very poor drafting and provisions unfavorable to the Assembly would not have been included.

The problems posed by this Easement also figure prominently in this lawsuit, so I'm going to summarize them for you here.

There are several significant aspects to this Easement and Cost Sharing Agreement:

- The I'On Club is listed as the owner of the "Club Property," the land where the Creek Club and the boating facilities are now located.
- The I'On Club granted to the Assembly a perpetual right to use the Dock, parking lot and boat ramp, including the right to temporarily park vehicles and boat trailers for periods up to 12 hours.
- The Assembly in turn granted to the I'On Club a perpetual right to use Eastlake and the Athletic Field for I'On Club members.
- The Easement also provided for a sharing of costs to maintain the Boating Facilities (the boat ramp, Dock and parking area) according to a formula based on a proportion of the number of I'On property owners compared with the number of non-I'On-resident I'On Club members. This formula at present works out to the Assembly's paying approximately a 75% share of these costs.

- The Agreement will automatically renew at the end of thirty years, unless terminated on six months' notice by one of the parties before a scheduled renewal date. And remember, when this agreement was written, the three parties were essentially the same entity.
- Because the Creek Club had not been constructed, the Easement had no provision guaranteeing the Assembly any access to the Creek Club itself. In addition, the Easement does not reference the overflow parking lot on Saturday Road.

This Easement was recorded in the land records of Charleston County, but was not recorded in the chain of title to the property itself, which meant that it would not easily be found in a title search on the Creek Club property. The Easement has been available for some time on both the public and private pages of the I'On website.

In August of 2000, the I'On Company deeded the Creek Club property to the I'On Club-remember that the Easement was done in February, 2000, stating that the I'On Club already owned the property.

In April, 2001, the Creek Club was completed. The I'On Company made it available on a contracted, fee basis to the Assembly for community gatherings, and also used it as an event venue for gatherings like weddings and the Mt Pleasant Junior Cotillion. These uses helped support the designation of "civic" zoning for the parcel where the Creek Club stands. An interesting note about "civic" zoning: it's a term that's used only in I'On, and it has no clear legal definition.

Now let's fast forward seven years.

In August, 2007, the I'On Company offered the Assembly the opportunity to buy the Creek Club. The offer was set to expire on December 31, 2007. This offer was part of a package relating to Phase 11, and the deal was this:

- The I'On Company offered to sell the Creek Club to the Assembly for $700,000;
- The I'On Company would distribute some $2.5 million, to be allocated to the Assembly, the Trust, the Montessori School and the two churches in I'On; and
- in return, the Assembly would consent to amend the PD through the Town in accordance with the I'On Company's plans for Phase 11. (Phase 11 is the undeveloped parcel over behind Maybank Green and Perseverance Street that's currently a fenced open field.) This amendment would have added 43 lots to Phase 11, and five more lots by converting the Creek Club overflow lot to residential building lots, plus opening an outlet from Phase 11 onto Muirhead Road.

The amount proposed to come to the Assembly would have been slightly less than the purchase price for the Creek Club, so we would not have to come up with a lot of cash for the purpose. The Board convened a meeting of the Assembly in late September or early October, at which Vince Graham presented the I'On Company's plans and this offer. Residents posed questions about the Phase 11 plans. They also expressed concerns about the Creek Club and the cost of running it, its suitability as a community center, and the challenges of managing the boating facilities.

While the Board was still evaluating the community's comments, but before it could respond to the offer, and well ahead of the original expiration date of December 31st, the I'On Company completely retracted the offer from consideration in October of 2007-less than two months after making it, and well before the Board had been able to perform any due diligence, assess community opinion, or formulate a response. The deal was simply off the table without warning or explanation. Both the offer and the withdrawal are detailed in the minutes of the Board meetings in August and October of 2007.

About a year later, around the summer of 2008, the I'On group began to negotiate a sale of the Creek Club property, as well as the overflow parking lot, to the Civitas group-148 Civitas LLC is the legal entity that now owns the Creek Club. At this time, many neighborhood residents, especially those on Saturday Road, objected to a sale to a commercial operator. Other residents objected to the sale because they were unaware that the Assembly did not already own the docks and Creek Club, or thought they'd understood that they were supposed to have been turned over to us. Many residents also felt that the potential lack of community access to the Creek Club was a problem. These concerns were expressed by various homeowner groups at open community meetings, at Board meetings, and on the community bulletin board, at great length. Furthermore, the Board kept the community informed on an ongoing basis with a lengthy piece in the March, 2009, newsletter, which every resident receives, and in postings on the bulletin board, as well as in frequent group meetings with various residents.

To address these community concerns, the Board engaged in discussions with the Civitas group-the Creek Club purchasers-with respect to revisions of the Easement that would

- first and foremost, provide perpetual dock access to the Assembly by allowing only the Assembly to terminate the Easement, not the other parties;
- guarantee Assembly access to the Creek Club itself-which was not in the original Easement;
- prevent the closing of the docks except for maintenance or repair-the Easement allowed for frequent closings; and
- limit the types of events at the Club to those that had historically been held there, including weddings, community gatherings, rehearsal dinners and so forth.

A subsequent draft of the Easement revisions also included limiting the total number of events annually to a fixed small increase over a 2008 baseline. All in all, such an amendment, if executed, would have provided significant benefit to the entire community, and a distinct improvement over the truncated rights provided in the Easement.

By January of 2009, the Civitas group agreed in principle to these terms by initialing a memorandum of understanding. Of course, that's not legally binding, but it did indicate a meeting of the minds.

Before a formal easement amendment could be signed, and before the sale, an I'On resident brought an action in front of the Town zoning commission, eventually appealed, to challenge the use of the Creek Club under the "civic" zoning, alleging that in fact it was being used for commercial purposes. At this time, the Creek Club was still owned by the I'On Club, which was providing access to the Assembly and other civic groups, and running a relatively low volume of wedding-type events. During the pendency of this challenge and the appeal, discussions on amending the easement were suspended, because if the residents won, no one would want to buy the Creek Club. The Town made a final determination that the then-current uses were consistent with "civic" zoning in February of 2009.

Again after the initialing of the memorandum of understanding, in March of 2009, one of the current plaintiffs brought to the Board's attention the 1998 Property Report evidencing an intention by the I'On Company to turn over the docks and ramp, as well as something referred to as "Creekside Park," to the Assembly. On the basis of this document, the Board wrote to the I'On Company requesting that the docks and ramp be turned over in accordance with the normal detailed property turnover process already in place for other Common Area elements like the Amphitheatre.

This letter also inquired about the existence of a "Creekside Park," asking if it had been built, and where it was located. A Board member participated in lengthy discussions with the I'On Company about how to handle the turnover, and the I'On Company was initially willing to comply. This process and discussions took place throughout the spring of 2009. The I'On Company also indicated that the planned "Creekside Park" was in fact what we now know as the marshwalk, which it termed a "linear park."

Subsequently, however, despite the I'On Company's earlier promise to turn the Docks over to the Assembly, the Civitas group insisted that the Docks be part of the purchase transaction. To preserve the deal with the Civitas group, the I'On Company withdrew from its plan to turn over the Docks to the Assembly and confirmed that they would be part of the sale to the Civitas group.

Citing opposition from the community, however, the Civitas group walked away from the transaction sometime in the late spring of 2009.

The Board subsequently approached the I'On Company to suggest revisions to the Easement to protect the Assembly's interests, once again including obtaining a perpetual right of access to the deep water docks, but the I'On Company refused to make any changes.

In late summer of 2009, with no warning, the Board president received a call from AMCS inquiring whether the Assembly needed to waive a right of first refusal to the Creek Club to enable the impending closing of a sale. In fact, there was no right of first refusal on behalf of the Assembly.

This was the first time the Board knew that any talks had resumed with respect to selling the Creek Club. The Board president immediately flew back to I'On from his summer vacation and tried once again to persuade both the I'On Company and the Civitas group to amend the Easement to give the community a perpetual right of access to the deep water docks. Both refused, and the sale closed a few days later, as scheduled, around August, 2009. The deed to the property actually contained an exception to title for the claims that have since been brought by the plaintiffs. This meant that the deed did not convey a full, clean title to the property.

At the same time, the I'On Club assigned its Easement rights (keeping its access to Eastlake and the Athletic Field) to the Civitas group. The Assembly was not a party to this assignment and the Board had no knowledge that it occurred.

This is a lot of events and facts as I've described them up to now, and I'm not making any points about propriety, legality, or anything else. This is "just the facts, ma'am"-just a timeline of events. Later I will focus on the Board's thinking in deciding on the course of action it chose at this time.

The Civitas group subsequently acquired the residential lot adjacent to the Club.

In 2010, the plaintiffs, LeaAnn Adkins and Brad Walbeck, filed suit against the I'On Company, the I'On Club, I'On Realty, Tom Graham and Vince Graham personally, 148 Civitas, Mike Russo personally, and the I'On Assembly. The Assembly was actually not part of the original filing. It was added a few weeks later because the parties felt the Assembly was an "indispensable party," meaning everyone wanted the Assembly to be bound by whatever the outcome of the litigation turned out to be.

I will be reviewing the allegations of this suit in a few moments-I am just working through the timeline at this point.

Since then, all the named individuals, plaintiffs and defendants, have sat for depositions set by the other parties. The parties have deposed, or subpoenaed for deposition, twelve individuals, including me, as witnesses relating to the Assembly. Most of these people, but not all, are past Board members. In addition, discovery requests have been made by the parties and large amounts of documents have been produced for the attorneys to examine.

Just last month, by court order, the parties engaged in a mediation session. Before the meeting started, all present signed a confidentiality agreement. At that meeting, all the parties were present, with counsel, and attorneys for the title insurance company and the mortgage holder on the Creek Club also attended. The plaintiffs' counsel presented a comprehensive slide show on his case, and in response, defense counsel made brief comments about their cases or positions as well. The parties were then split up into separate meeting rooms. The mediator visited with each group and then arranged for meetings between the various parties. I spent eleven hours with our attorney that day. He's a great guy, but I wouldn't wish that whole day's experience on anyone else in this room.

Thereafter, discussions continued in the hopes of exploring a possible resolution to the case and avoiding a trial, and draft proposals were exchanged, reviewed and commented on. At the time of the annual meeting last month, discussions were ongoing, and as follow-ons to the mediation session, were still subject to the confidentiality agreement that all parties had signed. This meant it was difficult or impossible for me to address questions at that time relating to the subjects under discussion. Subsequently, however, due to excessive demands by one of the parties, the Assembly has discontinued discussions, and at this time, there are no serious ongoing conversations.

Trial is currently set for February_, although the attorneys consider it unlikely that it will actually occur on that date.

So that's the history of the Creek Club property and the beginning of the lawsuit, as well as progress to date.

Let's turn now to the lawsuit and the plaintiffs' claims. As many of you know, the plaintiffs' attorney gave a lengthy presentation of his evidence last week. I will give an overview of the allegations and the claims against the various defendants. Those of you who missed last week's presentation should contact the plaintiffs and ask them to have their attorney make his presentation available online for your review, if you're interested. I suspect you will agree with many who have seen it that it is a compelling case. Nevertheless, you should also keep in mind that none of us has heard any of the defendants' responses or case presentations, and none of us is the judge or jury in this case.

I want to comment that as I describe the plaintiffs' case, I use the word "allege" in the strictly legal sense of a statement made in the course of court documents. I do not intend to imply any judgment about the validity or credibility of the plaintiffs' claims.

Before I begin my summary, I'll mention that I'm a Harvard-educated lawyer, with an MBA from Northwestern; I taught at the University of Chicago Law School, and practiced corporate law for many years. I've never practiced real estate law or practiced in South Carolina, but I'm able to understand the issues here without needing simultaneous translation when speaking with our attorneys. The Board members in front of you have extensive experience in business, finance, engineering, communications and medicine. You have a well-educated and focused Board that is well-equipped to address the issues presented by this litigation.

The thrust of the plaintiffs' case is that, as purchasers of property in I'On, they both relied on a Property Report from 1998, legally required by federal law, representing that the Community Dock as well as a

"Creekside Park," were intended by the developer, the I'On Company, to be turned over to the Home Owners Association at no cost to the Association.

The critical point to keep in mind is that all of the plaintiffs' claims involve reliance by a purchaser on specific legal representations made by a seller. We will focus on this point again later.

As part of the evidence supporting the claim that the developer intended to turn over these amenities, the plaintiffs have gathered a large number of other documents, including plats, filings with several other governmental agencies, and correspondence, that they argue clearly indicate that this turnover was intended to occur.

The plaintiffs further allege that the 1998 Property Report was amended in April, 2000, to delete the reference to the Park and Dock, but that the old property report was still being provided to prospective buyers and that the developer never notified earlier buyers of the amendment.

The plaintiffs also claim that the Board was aware of the original plan to turn over the Dock and the Park, but failed to assert the Assembly's rights to these amenities with the developer. Because of this failure, the plaintiffs allege that they are bringing this suit as a derivative action, representing all similarly situated I'On property owners.

In a derivative action, plaintiffs claim that their representative body-in this case, the Assembly's

Board of Trustees-has failed to act to protect residents' rights, so that they are suing on behalf of all residents to assert those rights-and that any recovery or remedy will be to the benefit of the Assembly. This is a particularly important point to keep in mind as we think about how we manage our position in this lawsuit.

Finally, the plaintiffs charge that rather than convey the amenities to the Assembly, the developer sold them to the 148 Civitas group.

With respect to the I'On Company, the plaintiffs allege:

- Violation of the Interstate Land Sales Act
- Breach of Contract
- Breach of Fiduciary Duty
- Fraud and Constructive Fraud
- Negligent Misrepresentation
- Violation of the SC Unfair Trade Practices Act and
- Promissory Estoppel

With respect to 148 Civitas and Mike Russo, the plaintiffs allege Tortious Interference with Contract.

With respect to all defendants except the I'On Assembly, plaintiffs allege Civil Conspiracy and Unjust Enrichment.

They further allege that all the I'On Defendants (the Company, the Group, the Club, and the Realty Company, but NOT the Assembly) are in fact alter egos of each other and that the corporate veils among them should be pierced.

As a result of all of these claims, the plaintiffs are demanding

- Specific performance, meaning that the sale of the Creek Club property to 148 Civitas should be unwound and that the amenities should be turned over to the Assembly;
- Monetary damages, injunctive relief, costs and attorneys' fees under the Interstate Land Sales Act;
- Monetary damages incurred as a result of the decrease in value of their homes because of the defendants' actions;
- Monetary damages, treble damages, costs and attorneys' fees for the violations of the SC Unfair Trade Practices Act;
- The recovery of the amount of unjust enrichment received by the I'On and Civitas defendants;
- Consequential and special damages for the Promissory Estoppel claim; and
- Actual, consequential, special, statutory and punitive damages, specific performance and injunctive relief, and attorneys' fees and costs for Tortious Interference.

It's a very long list of claims and a very long list of demands for relief.

Two very important facts to note about this complaint:

- First, there are <u>no allegations of wrongdoing-</u>no causes of action-made against the I'On Assembly. The statements that the Board failed to protect owners' rights are simply part of the factual recitation of the complaint.

- Second, <u>no damages or other relief</u> are demanded from the Assembly or its Board.

The presentation by the plaintiffs' attorney at his public meeting last week, as well as the one at the mediation session, mounted a great deal of supporting evidence, and was seen as very persuasive by those who attended both meetings. Our attorney and I were also very impressed when we saw the presentation at the mediation session.

However, even at the mediation, except for some brief statements, counsel for the various defendants did not put on full-blown presentations, so it is very difficult to assess the strength of the plaintiffs' case in light of the defenses that could be offered at trial. Among the defenses that have been mentioned were

- a statute of limitations bar to the action, and
- a reference to the "merger clause," meaning that everything that a buyer is entitled to rely on is contained within the deed and purchase contract itself, and that any other statements are legally irrelevant.

In addition, it's clear that many residents never received or relied on the same property report that the plaintiffs received, so on that basis, they would not stand in the same legal shoes as the plaintiffs, and therefore do not have the same legal rights that the plaintiffs are asserting.

Of course, the other defendants dispute the plaintiffs' interpretations of documents and their claims in general. This is normal in a lawsuit, and it doesn't say anything about the strengths or weaknesses of either side's position.

Since no charges have been made against the Assembly, essentially the Assembly does not need to put on any defense at trial-w<u>e have nothing to defend</u> against.

Now I think if you compare my timeline of events and actions leading up to the sale of the Creek Club with what the plaintiffs' attorney said about the Board failing to assert the rights of residents, that from the outset there appear to be some disparities. And the plaintiffs claim that the Board's lack of action was in violation of its fiduciary duty to represent the interests of the Assembly and the property owners of I'On. As I've tried to make clear, the Board not only acted, it acted with a laser focus on the best interests of the community.

The plaintiffs' attorney has tried to move us all to the point where the sole definition of "protecting the residents' interests" is "jumping on the plaintiffs' lawsuit bandwagon." And let's keep in mind that this definition is being pushed on us by the man who's suing us-suing every person in this room. There's a reason for that, and we'll explore what that might be a bit later.

This constricted definition completely ignores the way the Board properly exercises its fiduciary responsibilities and arrives at a position that it feels actually <u>does</u> represent the community's best interests, after investigation, analysis and debate, as well as soliciting community opinion.

So I think it's important that we have a shared understanding of the Board's obligations with respect to our homeowners, and of what the Board did to uphold those obligations.

First and foremost, we are responsible for representing the interests of <u>all</u> homeowners-and that may mean more than the people who speak loudly at public meetings. While it's clear that there are many owners who think that deep water access and the use of the Creek Club are important amenities and contribute to their property values, there are others who never use those amenities and may not have even been aware of them when they purchased here. There are others who might believe they are valuable, but are unwilling to pay special assessments or increased regime fees to pay for them. There are others who think we should have the Docks, but don't care about the Creek Club. Still others think that having access to the Docks is really what's important, and owning them isn't a big deal-and furthermore, that the issue of access to the Creek Club is a totally different kettle of fish. These views were all publicly expressed by various residents at the 2007 meeting where the I'On Company presented its package offer covering Phase 11 development and a possible sale of the Creek Club.

So it's important for the Board to try to solicit input from as many residents as possible, hopefully representing a diversity of the viewpoints that may exist. That's the main point of what we're here to do tonight. It is also something that the Board did extensively back in 2007, 2008 and 2009. And we're doing it once again because times change and opinions change.

Ultimately, the Board must decide which course of action in fact not only represents residents' views, but also benefits the broadest range of residents and their financial and social interests in the community.

Second, we are responsible for carefully managing the Assembly's resources. This means being stewards of our landscape and any structures that we may own, but it also means that we have to properly manage our finances. That potentially involves a cost-benefit analysis as one way of evaluating proposed expenditures, as well as an assessment of the risks involved.

So let's take a look at some of the financial issues relating to this litigation. One of the top issues is the cost of the litigation itself. When a homeowner brought the 1998 Property Report to the attention of the Board, the single document presented referred to the Creekside Park and the Dock. Three years later, the plaintiffs, after filing suit and spending a great deal of time and money researching the case and pulling documents together, have built a case that involves a great deal more than one document. Any litigation is expensive. For the Board to jump into litigation on the basis of one document of unpredictable significance would not have been a sound judgment based on the limited facts known at the time. Instead, the Board reasonably concluded that it should request the I'On Company *to* turn over the Docks in compliance with that document-and the I'On Company agreed *to* do so, until it reneged.

The plaintiffs are two private homeowners who presumably could not finance the cost of such litigation personally. They were fortunate *to* find an attorney who was willing *to* take on their case on a contingency fee basis. A sensible attorney working on a contingency basis is going *to* do two things: first, evaluate the potential strength of the case and the likelihood of obtaining a money settlement *to* include legal fees; and second, making sure that on the other side of the suit are deep-pocketed defendants who can pay not only money damages, but also the legal fees and costs incurred in pursuing the case.

Now if you have a deep-pocketed plaintiff as your client, you don't need *to* engage in that analysis-you simply charge your fees directly *to* your client. Since presumably the Assembly is a deep-pocketed party, I think it's very pertinent *to* consider the low likelihood that an attorney would have taken on this case as a contingency case if the Assembly were the plaintiff. Meaning that over the last two years, we would have been running up enormous legal fees-the attorney's last demand was for an amount equivalent *to* $500 for every property in I'On.

In addition *to* the legal costs of pursuing litigation, there's the potential cost of ownership of the Docks and the Creek Club. We have some idea of the operating costs of the Docks alone, because we currently pay about 75% of them. But we have no idea of the cost of operating and maintaining the Creek Club. Furthermore, we've never inspected either the Docks or the Club structures themselves, so we have no idea what condition they're in. The expected life of the Docks and the Club, as well as their current condition, can have a significant effect on our reserve account planning and spending.

But here's what we do know from our financial dealings with the Creek Club management in the past year:

- We know that neither of the entities that owned the Creek Club property and Docks for the last twelve years has adequately insured the property. This is a perplexing oversight-or economizing measure-in light of the value of the facilities. Obviously, if we were to own the Docks, we'd fix that problem, but it costs money.
- We know that neither of the entities that owned the Creek Club property and Docks over the past twelve years has put away one penny toward a reserve for the eventual replacement of the Docks at the end of their estimated 30-year life. Creek Club representatives have presented estimates for replacement cost ranging from $300,000 to $500,000-a pretty big range, and every bit of it unfunded by any of the previous owners.

At this point, we have no idea whether this type of management is the tip of the iceberg, or just a couple of oversights. But it makes you wonder. By way of illustration, at the mid-year Assembly meeting at the Creek Club, we had to pull all the chairs out from storage under the building. They were damp, dirty and covered with mold. What does that potentially say about the conditions under the Creek Club, and the condition of its foundations and understructure? We don't know. Does the Club pay a termite bond, or does it skimp on that type of expense? We don't know. What's the condition of the roof? We don't know.

I'm not going to stand here and try to scare you by telling you that if we owned the Club and the Docks, your HOA dues would double or triple, or alternatively that they'd increase by a mere $10 a year, because neither of those might be true. All I'm saying is that it's an important factor for the Board to consider as it thinks through its options. Because if we don't think through those factors, three years from now, homeowners are justifiably going to be asking us why we didn't anticipate a roof replacement, or a foundation rebuild, or some other big cost issue.

It's important to understand that just because the Board takes these factors into account, it doesn't necessarily pre-determine the outcome of the analysis. But all of the issues I'm talking about become critical elements of making a balanced and nuanced judgment about any course of action.

Among the other factors that a Board must consider is the interwoven net of relationships and goals that the Board is managing. In particular, we have a long-term ongoing relationship with the I'On Company. We are working on many fronts with the I'On Company, including portions of the neighborhood that have not yet been turned over to the Assembly, the transition of the I'On Design Committee to Assembly control, the availability of a community center, and, perhaps most significantly, the future of Phase 11.

While we don't always see eye-to-eye with the developer, the Board needs to consider, in the overall best long-term interest of the community, the importance of maintaining a pragmatic and realistic working relationship. I can compare it to a troubled marriage, where the spouses try to work things out and hold it together for the sake of the kids. It doesn't mean that we cave on every demand the I'On Company makes of the Assembly, or that we're "in bed with" the developer if we do find common ground for agreement, or that the I'On Company offers us everything we'd like to achieve for the community.

In the case of the sale of the Creek Club to the Civitas group, the Board seriously considered the effect of litigation on its relationship with the I'On Company. And even going back to 2009, many of the same issues in play then are still in play now.

With this in mind, the Board tried to identify valid community concerns that it could attempt to address by means other than expensive and confrontational litigation.

When the Board was initially looking at the 2008 proposed sale to the Civitas group, it was unaware of prior legal documents potentially giving rise to a claim that we were owed the Creek Club and Docks. But it was aware that we had the 30-year Easement clock tolling, that we had no guaranteed access to a community center, and that even the then-current uses of the Club posed a burden on nearby residents. Furthermore, the Board was well aware that substantial and expensive structures-the Clubhouse and the Docks-needed a source of funds so that they would be properly maintained and not deteriorate into white elephant eyesores.

With these concerns in mind, the Board negotiated an arrangement with the prospective buyers that achieved, most importantly, perpetual deep water dock access, guaranteed access on a cost-effective basis to a community center, and capped the growth of activity at the Creek Club. At the time those terms were agreed, the Civitas group was made up of I'On residents who presumably wanted to maintain good relations with the community. They were in the process of building the Inn at I'On and opening Jacob's Kitchen. The Board felt that the promise of great community support for those ventures, in return for these concessions, was a strong incentive for the Civitas group to reach agreement.

Months later, after the sale had suddenly fallen apart and secretly come back together, that incentive had disappeared-the Inn and the restaurant were open and successful, the I'On group and the Civitas group had cut a deal behind everyone's backs, and neither had any interest in letting the Assembly throw a monkey wrench in the works by trying to work out amendments to the Easement.

So let's return to the litigation option. Why didn't the Board run into court to stop the sale or force the Docks to be turned over? This is where the fine points of the law become extremely important.

You'll recall that I highlighted the point that the plaintiffs' case turns on their reliance on written representations made by a seller to a buyer. Any potential case brought by the Assembly had none of those elements: no representations were made to the Assembly, and the Assembly was not a buyer of property, and so didn't rely on anything said or written or promised by a seller. In fact, there was no sale to which the Assembly was a party.

It's easy to talk about all the nice things that were promised by real estate brokers to prospective buyers, but none of that gives rise to a legal cause of action. It is undoubtedly the case that many residents feel aggrieved and misled by these kinds of sweet nothings, but that doesn't mean that, under the law, they have a right to sue. When the plaintiffs refer to "similarly situated residents" in their lawsuit, it is a bit unclear, even now, how many residents are in fact "similarly situated," because many of them never got the same documents the plaintiffs got. Realistically, most residents simply do not have the same legal basis for a claim that the plaintiffs have. But even more clearly, the ASSEMBLY does not have this basis for a claim.

Do our Boards, past and present, believe that the developer made such promises in writing to at least some buyers? Much of the evidence we've seen so far pretty clearly indicates that they did. Does that mean the Assembly itself has a legal right that it can assert? Pretty clearly not, and certainly not on the basis of the one document known to the Board in 2009. And that is a very critical reason why past Boards have not brought a suit or joined the plaintiffs' suit, and that the current Board has not done so either.

There has been a lot of sentiment that the Board should "support" the plaintiffs' case. But it's very unclear what form or method that support would involve.

First, let me make one thing clear: we have NEVER opposed this action. We have not taken any steps to deny any claims by the plaintiffs. When asked to supply documents for discovery, and witnesses for depositions, we have done so without complaint. (Well, okay, we complained that it was a lot of work and that it was running up our legal fees, but we didn't file any opposing court motions about them.) We haven't held back any secret documents that might be helpful to the plaintiffs' case. By the same token, we haven't given any aid and comfort to the "enemy," whether it's the I'On group or the Civitas group, to aid in their defense of their case. Our documents speak for themselves, and our witnesses have spoken the truth under oath.

Why would we volunteer to pay attorneys' fees to pursue this litigation, when the plaintiffs' attorney has already taken it on a contingent basis? The plaintiffs' attorney needs to look elsewhere for his fees.

There is no form of court pleading or motion that we can make to magically switch sides, to ask the judge to let us be plaintiffs rather than defendants. Not only that, but as I've discussed, we don't have the cause of action that the plaintiffs have, so we can't assert their claims alongside them.

Can we say that we believe the plaintiffs have a strong case? We have said so and we are saying so again here tonight. Can we say that we agree with at least some of the plaintiffs' goals? We have said so, and we are saying so again here tonight. Can we say that we think a win by the plaintiffs is in the best interests of I'On and will confer a benefit on the community? We might say so, but we think we have the opportunity to achieve a better outcome than that offered by litigation. In addition, to agree on that point potentially causes the Assembly a very significant financial exposure that I will discuss a bit later, when I review possible outcomes to this suit.

So after weighing input from the community, financial scenarios, and its own judgment about the community's needs, where does the Board come down on all of this? What options might the Board view as a win for the Assembly?

The plaintiffs' lawsuit inextricably ties the Assembly to ownership of both the Docks and the Creek Club. We think there are good reasons why that's not the only good solution for I'On. We think a win for I'On might potentially look a bit different.

The very first element of a win is something that is non-negotiable, regardless of what path we take to get it, whether litigation or negotiation: <u>a perpetual right of access to the deep water docks and the boat ramp.</u> That right of access is what makes us a waterfront community and enhances our property values. It is unthinkable that the Assembly, under any circumstances, should surrender that right or permit it to be taken from us.

It's also important to realize that a right of access need not include a right of ownership, which carries additional burdens of operating and maintenance costs, and liability exposure. If we can achieve a right of perpetual access, regardless of who owns the Docks, that's a win for I'On.

Another-and very separate-element of a win is acquiring a community center for I'On. There are certainly many who very reasonably believe that community centers look nice but ultimately are a financial drain on a community. But on balance, this Board feels that it's simply not right that a community of I'On's caliber lacks a gathering place for its residents. But does that community center need to be the Creek Club?

Let's look at that building: The Creek Club is almost twelve years old, in unknown condition and with unknown operating costs. It offers a single large room with terrible acoustics, two small offices, and a catering kitchen that may not meet code. The large room is not conducive to small group meetings. It doesn't have a conference room where the Board might meet with enough space to invite more residents to sit in and speak on community issues. It is located at the end of a residential street, and has only a small parking lot. (Let me note here that while the plaintiffs argue that we are also entitled to the overflow lot, that parcel was platted separately and at a different time, and the claim may not be quite so certain.)

Don't get me wrong: if a judge hands us the deed to the Creek Club, we're not going to give it back. We will find ways to make it work-which may involve additional expenditures, but we'll deal with that if the time comes. But I think all of us who've been there can agree that it's a less-than-ideal community center.

If it were possible, as a result of discussions to resolve this suit, that the Assembly could end up with

- a newer community center,
- in a better location with sufficient parking,
- at a reasonable acquisition cost and with affordable operating costs,
- and a design that could offer more congenial gathering spaces to residents for lunches, casual group get-togethers and presentations, community groups, board meetings, birthday parties and so forth,

then it's reasonable to think that such an arrangement could be viewed as a win for the Assembly. Especially if continued guaranteed access to the Creek Club for large community gatherings was part of the package.

Finally, a win for I'On should include an arrangement that guarantees that whoever the owner of the Creek

Club is should have an income source that will support keeping the building maintained in first class condition, but also reduces the burden on the adjoining residents.

There have been suggestions that the Creek Club is a potentially money-making asset for the Assembly. There are basically two ways the Assembly can make money from the Creek Club:

- one is to sell it off, and
- the other is to operate it, either directly or through a lessee, as an event venue, subject to extensive covenants or restrictions to reduce the burden on the community.

The first option seems to undercut the point of the litigation. The second, while potentially feasible, would require a great deal of financial analysis to determine whether the Creek Club can be operated profitably, and throw off sufficient revenue to the Assembly to be able to maintain the building in top condition, at a level of activity acceptable to nearby residents-some of whom want no activity there whatsoever. Any income to the Assembly from the Creek Club is taxable income, as we are a not-for-profit entity. And finally, the Assembly's job is to manage our community. We are not in the business of running an event venue.

So it could very well be a win for the Assembly to leave the current owners in place, provide a flat rate annual financial contribution to support some maintenance and operating costs for the Docks, and cap the activity level at a point substantially reduced from current operations. <u>In fact, this is exactly the arrangement that the current owners of the Creek Club agreed to in principle before they bought the property.</u>

Those elements could make up what the Board feels might be a win for I'On. Details would have to be worked out, and of course the devil's in the details, but if arrangements along those lines could be agreed-in airtight documents-then the Board and our residents might view that as an even better outcome than that sought by the plaintiffs. And we almost certainly could achieve it through negotiation in less time than the litigation may take. What we're trying to do here tonight is to hear from our residents about what they might view as a win for !'On-whether it's these options or others.

Of course, all the parties would have to agree to those terms and to ending the litigation. And there is one very significant stumbling block to arriving at such an agreement. Let's take a look at what happens if this case continues on its path to court and a trial lasting one to two weeks.

The first option to consider is that the plaintiffs lose their case. If that happens, in some ways, the Assembly is no worse off than before, legally. But on a practical level, we could be. A loss would confirm that we have no legal right to Creek Club access-and the Creek Club management has already refused to offer the Assembly a contract for use of the Club from February to December of this year, because this litigation is going on. So we'd ve:ry clearly have no community center.

Neither the Board nor the Assembly would be happy with that outcome, and we're certainly not rooting for the plaintiffs to lose their case. If they did lose, the Board would then take a ve:ry hard look at achieving our goals through other means, including further litigation-more expense for legal fees-challenging the easement, challenging the use of the Club as a commercial enterprise in a civic-zoned parcel, or even tying our expectations to our discussions on Phase 11 planning. The outcome would be uncertain, but if that's a fight we're forced into, we're not afraid of it.

The other possibility is that the plaintiffs win on at least the main claims of their case, and they get the remedies they're looking for. The main remedy is that the sale of the Creek Club be unwound, the Assembly gets the Club and the Docks, the Easement is voided, the plaintiffs get some personal compensation for their troubles, and their attorney collects some big bucks for legal fees.

In practical terms, that means the Civitas group turns over the Creek Club keys to the Assembly, and goes back to just running the Inn and the Jacob Bond I'On House over in I'On Square.

And the I'On group would have to

- pay back $1.4 million to the Civitas group, and

- pay the Assembly all the costs of fixing up the Docks and the Clubhouse to remedy any deficiencies after a thorough inspection, and
- pay the Assembly for thirteen years of unfunded reserves on the Clubhouse and the Docks.

All of that money could easily add up to an amount right around the $2 million dollar mark.

Most of you here know the players involved. How likely does that scenario sound to you?

In real life, the losers-which would not include the Assembly, because, remember, there are no claims pending against us-are going to appeal that judgment all the way to the South Carolina Supreme Court. And because one of the claims involves a federal statute, they might even shoot for the US Supreme Court. Given that this case has already been pending for close to three years, we'd almost certainly be looking at another two to three years before it was resolved. And we wouldn't know what the result would be on appeal.

During that time, the entire matter is in limbo, the Easement clock is ticking, and we still wouldn't have a decent community center for the foreseeable future.

Any time anyone goes to trial, it's a crapshoot. Even on *Law and Order,* sometimes the bad guys win. So why not get everyone at the table to try to work out a settlement that helps everyone achieve reasonable goals?

Because there's one person at that table who loses out in the kind of settlement that doesn't involve actual ownership of real estate changing hands: the plaintiffs' attorney.

Remember that he's taken this case on a contingency fee basis, and he's tried to get some deep-pocket defendants who have the wherewithal to pay him. As I said earlier, his pretrial fee demand amounted to $500 per I'On building lot. And that was a month and a half ago, before he spent all this time putting together a big presentation, and sitting in on more depositions and getting ready for a trial date next month. If this goes to trial, a conservative estimate of his fees could run to $1000 or more per building lot. Put another way, paying such a sum could wipe out an enormous portion of I'On's cash reserves.

We don't know the financial status of either the Civitas group or the I'On group, but the Assembly does publish its financial statements, and we're a pretty deep pocket. If the plaintiffs' attorney convinces the entire I'On community that he, not their Board, is acting in their best interests, then he's gone a long way to making his case that he's entitled to collect his fees from the Assembly itself-from all the people in this room tonight.

The residents and the Board ought to be the natural allies of the plaintiffs, and logically he should be trying to persuade our attorney that he's got a great case and we should join in. But instead, he's driving a wedge between the residents and the Board, and trying to take our attorney out of the play, because our attorney is advising us to hold fast and not take precipitate action to benefit either side. When your opponent tries to take your attorney out of the play, that's probably a sign he's doing a good job for you.

And our attorney advises us not to do anything at this point because we don't need to. The Assembly is critical to any attempt at settlement, because if a proposed solution isn't acceptable to us, it won't fly. It's in the Assembly's best interest to preserve its ability to work with all parties to arrive at a settlement. And at no point will your Board accept any position that could risk making the Assembly responsible for the plaintiffs' attorney's fees. That would simply be irresponsible and a dereliction of duty.

The Board and its attorney always have the option to change our position to suit the interests of the Assembly as we approach trial, depending on the status of any discussions that might occur between now and then.

This has been a long presentation. Let me wrap up by summarizing the points that I hope you all will take away from this evening's discussion.

- The Board unequivocally stands its ground that this community is entitled to perpetual access to the Boating Facilities-the Docks and Boat Ramp. This is the North Star that this Board and all previous Boards have kept in sight in representing the best interests of I'On residents. Whether we acquire perpetual access through a trial of this lawsuit, through a settlement agreement, or through later legal challenges, we will pursue this claim.

- The Board wants I'On to have a community center that meets the needs of its residents. Whether this is the Creek Club itself, or some other new center, a community of I'On's stature and values should have its own community gathering place.
- The Board continues to maintain that the community's goals can be best reached through a negotiated agreement reached by the parties. Such a solution has the potential to be financially preferable, and much faster than awaiting the outcome of a trial and the inevitable appeals. We welcome all parties to this litigation to the table, as well as some of the other players who are not parties but may be in a position to contribute to the solution.
- Finally, this Board will never intentionally expose the Assembly to a claim for legal fees that would be financially devastating to the Assembly and impose substantial financial costs on our residents.

The litigation and the issues surrounding it are a very complex topic. There are a lot of dollars at stake. There is a huge amount of justifiable community concern about this litigation, and emotions are running high. I have tried to present a dispassionate, factual assessment of this entire matter. And I want to assure you that every single Board member, all neighbors sitting here in front of you, elected by all of you to represent your interests, is fully committed to

doing what it takes to insure that your interests-which are the same as ours-are properly asserted, represented and protected to the fullest extent possible.

Your Boards, past and present, are unpaid volunteers who donate their free time and energy to work on your behalf. These are the people who the plaintiffs' attorney would have you believe are incompetent and not looking out for your and their own best interests. I know all these people, and believe me, that's not the case. You should not accept such accusations from anyone, much less from the attorney who is suing you.

We take our responsibilities-unpaid and time-consuming as they are-very seriously. We stood for election because we love this community and we are committed and dedicated to the values and aspirations that I'On stands for. We are all of you, and we never lose sight of that.

For residents who are not able to attend this meeting, or for anyone who would like to review these comments, this presentation will be posted on the I'On website by tomorrow.

We're going to take a brief break. I'm sure everyone needs a bit of a stretch. [Identify location of bathrooms.] For those of you who've already signed up to ask a question or offer a comment, if you feel that your questions have been answered and your opinions are already recognized, you may come up and cross your name off the speakers' list. If you have questions or comments, but were waiting to hear the Board's views tonight before signing up, please come up and sign the speakers' list.

When we return, Martha Morgan, our Board secretary, will call the name of each listed speaker in turn, along with the name of the person on deck. We're going to ask each speaker-and all speakers MUST be property owners in I'On-to come to the microphone in the front of the room and announce their names and addresses. Each speaker will have three minutes to speak, including responses from the Board, and Martha will hold up a one-minute warning sign.

We fully expect that there will be a diversity of opinion in the room, and that's as it should be. But we also fully expect that all speakers will speak courteously in both words and tone, that there will be no personal commentaries or attacks on anyone involved in this litigation, and that all speakers will speak in turn without interrupting others or being interrupted. All discussion should relate directly to the litigation that is the subject of tonight's meeting. We will end the meeting promptly at 8:30, but if it appears that there are many individuals wishing to speak at that time, the Board may decide to extend the meeting.

Let's reconvene in ten minutes.

I 'On
Board of Trustees Meeting Minutes
January 24, 2013

Members Present: Deborah Bedell, Tony Woody, Martin Hansen, Martha Morgan, Frederik Winther

Members Absent: Jay Thompson, David Countryman

SCS: Trisha Elrod, Dana Cutright

Homeowners Forum
Guests: Patrick Vail, David Ivey, Roderick Wood, Denise Williams, Dianna Rae, Jeff Meyer, Tom O'Brien, William Allen

Patrick Vail is concerned about HOA not allowing people to park boats in their driveway and believes they should be able to because it was allowed in the past. Deborah said that the rule always stated that boats be hidden from the street with an IDC approved screen of some sort. Patrick disagrees.

David Ivey is concerned about the speeding on Ponsbury and Shelmore. Deborah says she has spoken with police and they will not ticket anything under 25mph and since the streets are public, the police can only enforce what the law allows. HOA has no authority over the public streets.

Rick Wood expressed ongoing concerns about the water quality and conditions in canals. The alga is out of control at times, water stays stagnant too long and landscape services dump grass clippings into water. Rick feels the developer needs to pay to correct problems. Dave also thought that the Canal was still under the developer's control. Dave Rosengren said that the grass clipping issue has been addressed and should stop and that the water quality is currently being addressed. The Infrastructure committee is currently looking into additional solutions and has spent about $8,000 towards improvements since 2005. Trisha Elrod will follow up with any further concerns Rick Woods has in the future.

Jeff Meyers wanted clarification on some details about HOA rule changes. In particular, boat parking, satellite dishes/antenna placement, fine structures, and property maintenance.

Torn O'Brien expressed frustration about basic rule enforcement with neighbors on Hopetown. Torn offered to help enforce HOA rules. Deborah stated that we don't have "enforcement squads" but that if a neighbor were to bring in a complaint, it should go to Trisha Elrod and she would address it.

William Allen expressed frustration about the boat parking situation and stated that he has parked his boat in his driveway for 12 years with permission and purchased his house originally with the promise of a boating community. Deborah said that the boat parking rule was always there and that William was given permission to break the rule by prior HOA Boards. Deborah stated that she is seeking legal guidance on this matter before proceeding.

William Allen also wants someone to look into parking issues on his corner. A 10' easement between I'On and Olde Park was allowed to be developed and he wants to see if I'On can reclaim it for widening the road. He said it is a safety issue and would like to see more parking spaces there. Trisha will look into property lines and easements and follow up with Board.

Previous meeting minutes approved:

Motion to approve *the June 12. 2012 Board of Trustees* mid *year meeting minutes as submitted.* All *were in favor. Motion carried*

Motion to approve *the November 29, 2012 Board of Trustees meeting minutes as submitted.* All *were in favor. Motion carried*

Motion to approve *the December II, 20 12 Board of Trustees annual meeting minutes as submitted. All were in favor. Motion carried*

Motion to approve *the December* 20. *2012 Board of Trustees organizational meeting minutes as submitted.* All *were in favor. Motion carried*

Landscape/Infrastructure Committee

Martha brought up the idea of hiring-additional landscape help to take some burden off the volunteers. They have years of knowledge and history. What happens if/when both resign or leave? Dave informed the board that they have created detailed documentation to enable such a transition- He also commented that since SCS is now on board that the job would be done better than previous property Management Company and those things would get better.

Canal issues were discussed during homeowner's forum.

Crosswalks in 4 spots were discussed for traffic calming and aesthetic improvements. John Powers is working with an engineering company and the town for ideas on speed bumps and aesthetics for the following crosswalks:

1. I'On entrance
2. Shelmore near church. Signage is pending.
3. Sowell! St
4. Eastlake

SCE&G lights- Rob Wiebolt is working with SCE&G to get someone out to clean the lights. There was discussion about possibly getting a volunteer group together to schedule and coordinate with SCE&G for repairs and cleaning at the same time.

Water and electric meters are currently getting identified with numbers and usage by Trisha Elrod.

I'On Trust Committee:
Reminder: Neighborhood oyster roast on Sunday, Feb. 10 at the amphitheater. Please make reservations by Feb. 5.

There will be a Celtic music event at the Wilcox house Feb. 27. Tickets are $20.00

It was clarified that Martha Morgan will be sending I'On any Trust information electronically to Trisha to be included in Board meeting agenda.

Communications Report
HOA web mailbox: Martha would like to define a response time to items coming into the HOA web mailbox. Deborah suggested that Trisha be the first responder on basic HOA inquiries. Martha and Deborah would be responsible for responding to Board issues.

SCS Manager Introduction: Trisha to propose a format and work with Martha to schedule an event. Martha will post something on website introducing Trisha.

Martha requested and received an OK from the board to redesign the website: the current one is cumbersome and in an outdated format. She would also like database to be integrated between SCS and /'On as we transition to Association Voice. Trisha will look into SCS as administrator and possible integration.

Martha would like our minutes more concise. It was decided that the minutes would be typed and presented for Board preliminary review with in 5-7 business days of the board meeting.

Trisha is to check all board member e-mails for accuracy.

I'On Design Committee
Nothing for the board to discuss.

Finance Committee
Frederik wants to make sure that /'On gets all the money that may still come in to AMCS during this transition of Management companies.

Committee is currently trying to collect all delinquent money and would like to get things automated for collections.

Board will need to discuss and pass a collection policy and payment plan option for HOA dues for residents.

Parliamentarian and Governance Committee: Nothing for the Board to discuss

Amenities: Nothing for the Board to discuss

Compliance Report: Current proposed rules revisions D-101, D-103, D-107 and D-110 were tabled.

President's Report:
Deborah reported that the Police will not send out patrols just to enforce /'On parking rules, but would ticket if they see cars parked in front of a state approved "No Parking" sign, or if a car is parking illegally. Deborah stated that the police are willing to come to a meeting and give input on particular rule discrepancy between /'On rules and state rules.

Deborah stated that she would like to put together a "Past Board President Group" to share experience, history and resources. The board fully supported this concept.

Deborah would like for board members to subscribe and use the "Board Bulletin Board" for debates, etc. in order to record the history of discussions on Board issues.

Meeting Adjourned at 8:55 P.M.

SPECIAL BOARD MEETING
17 February 2013

PRESENT: Deborah Bedell, Jay Thompson, Tony Woody, David Countryman, Frederik Winther, Martin Hansen

GUESTS: Tim Bouch

Following an executive session at which the Board took advice of counsel with respect to the proposed settlement of the Creek Club litigation, the Board took the following actions:

Tony Woody moved that

Since the Board and the Assembly are not parties to the litigation settlement reached by the plaintiffs and the other co-defendants, the Board take no legal position with respect to the proposed agreements, but that the Board accept the deeds to two parcels, one containing the docks, boat ramp, parking lot and waterfront land at the Creek Club, and one consisting of a small parcel in the I'On Club parking lot adjacent to the entrance from Mathis Ferry Road, as and if offered in conjunction with the settlement.

Jay Thompson seconded the motion. All present in favor.

Jay Thompson then moved that

The Board post the draft agreements along with a message from the Board commenting on the proposed settlements on the community website, to be brought to residents' attention through an email blast.

David Countryman seconded the motion. All present in favor.

The meeting was adjourned.

Landscane Committee Renort- February 2013

Enhancement: *I'Qv Square raised beds*

Background: Last summer the Assembly paid to have the I'On Square upgraded with pavers and sod. The Square Association purchased the tables, chairs and umbrellas. Included in the 2013 Landscaping Budget is $12,500 earmarked for enhancement projects.

Proposal: Removal of the existing ground cover around the (seven) existing trees, amend the soil and install new plants and seasonal color. Cost proposal not to exceed $7300, which includes a warranty of all plants for one year. Project to commence early spring to help establish the new plants before the warmer weather begins.

Rationale: The Square is a focal point as guests arrive in the neighborhood and enhancing the beds is a thoughtful welcome home to our neighbors.

Perseverance Square: *Planter Replacement*

The Landscape Committee authorized Lawn-0-Green to replace three large pots at Perseverance Square broken by vandals. Replacement to be done in April when the spring color is added throughout the neighborhood. Cost: $1050, which includes planters, soil, irrigation, and flowers.

February 13 Infrastructure Update

a. I'On Company (Chad Bessenfelder) has hired SWA Engineers to redesign the end of Jane Jacobs Street near Phase 11 due to water retention and flooding. It is still in the design process and will take a couple months before the I'On Company can obtain permits. Short term fix by the I'On Company has been to hire a contractor to grade the area to direct water away from the houses and complaints from 85 Jane Jacobs homeowner. This is only a temporary fix.
b. Process being determined to clean out the Stormceptors. Stormceptors, as a general rule should be inspected at least twice a year to guage how much debris they catch and they should be cleaned when their holding area is 1/3 to 1/2 clean...this will be different for every unit. The I'On Assembly also has some wetland areas with special outflow structures that should be checked/ cleared occasionally a good schedule may be before hurricane season. The Town of Mt. Pleasant has agreed to go through hot spots with field visits and training/ meetings. These are being scheduled for later in March/April.
c. Put a hold on ordering the 1 HP Hydromixers until it can be determined if the I'On Company (who owns the canals) will pay for the improvements to their .5 HP Hydromixers that are not working properly.
d. Stop Signs replaced at Robert Mills Circle and Duany Road
e. Crosswalks project has been put on a slow down until other priorities are decided upon by the Assembly. Construction Bids on hold.

Ongoing Projects on Calendar/ To Do List

f. Cracked Sidewalks/busted curbs (work with town for repairs - catalogue need)
g. Review of SCEG Lights Maintenance
h. Creek Trails Maintenance

Estate Management Services, Inc.
305 Indigo Drive
Brunswick, GA 31525
www.a2zponds.com

ESTATE MANAGEMEN.T SERVICES'

Ph: 1-888-307-6637
Fax: 912-261-8882

Invoice

Date	Invoice#
12/19/2012	76398

I'ON Assembly
c/oAMCS
Attn: Accts Payable
2409A Mall Drive
N. Charleston, SC 29406

P.O. No.	Terms	Project
	Due on receipt	

Quantity	Description	Rate	Amount
	(2) 1hp, 240 Volt Aqua Master UltimaxHydromixers, 50 Ft. of Power Cable, Installation	8,676.00	8,676.00
	Sales Tax	0.00%	0.00

Please include INVOICE NUMBER on check and remit to above address. Questions? Call 1-888-307-6637.	Total	$8,676.00

Finance Committee Report- FEB. 2013

The major activity for the month of January was working with SCS to establish a starting point in the SCS financial reporting for funds moved by AMCS to them. This process was complicated by the fact we were spending funds to satisfy accounts payable left at the end of the year from AMCS that they could not pay, and post them as 2012 expenses. Also paying bills that became due in January while trying, at the same time, to quantify ending AMCS balances for 2012. Additionally, AMCS did not have access to some of the bank accounts, so could not give us accurate closing balances. SCS had to establish contacts with these banks to get up to date figures. We are nearly through with this process, so reporting on February results should be simpler.

At the same time we have been working on finalizing number for 2012 to be able to file tax return. We will keep the same accountant Franklin Amburn who has been doing our tax returns the past few years. (we had engaged him through AMCS, who negotiated a discounted fee for their clients),The fees are very low, we find no need to change at this time.

Another thing we accomplished was interviewing McCabe/Trotter, a law firm recommended to us by SCS, who could handle our collections on a "pro bono" type arrangement, saving us considerable costs for collections. They would incur the legal costs we have been absorbing, and assume the risk of not collecting on the accounts. However, if they were successful, we would share the receipts. They have an extensive client base with Homeowner Associations, and a proven track record. We were impressed with them, and ask the Board will approve attached "NEW COLLECTION POLICY"

Concerning our financial performance for the month, we ended the month favorable on the expense side by about $18,000. On the revenue side, it appears we have collected about one third of the regime fees due for 2013; low by historical standards for this time of the year, but we were not able to get the bills sent out as early as in the past, due to the changeover to SCS, and this undoubtedly delayed getting receipts. Our collection of Transfer fees for January was right on target at $5415, representing five closings. We are working on a system to ensure we collect from every eligible resale.

I'ON ASSEMBLY
COLLECTION POLICY

WHEREAS, ARTICLE II, 2-104; of the Covenants, Conditions, Restrictions and Easements states that the Board shall have the right to adopt procedures for the purpose of collecting assessments and

WHEREAS, the Assembly has contracted with a professional management company to provide management service and supervision over ce1tain contract services to the Assembly;

NOW THEREFORE, be it resolved that the Board of Directors has elected to authorize its managing agent to carry out the following policy with respect to all delinquent accounts, reserving to itself the right to modifY or intervene in certain cases, as the Board may see fit.

- Payments of all titleholder annual assessments are due by February 28th of each year.
- If the total annual fee is not received by February 28th, then the titleholder will be charged a late payment fee of 1.5% on any unpaid balances for each month's delay.
- If the total fee is not paid by June 30 (approximately 120 days after the due date), then the Assembly will file a lien on the titleholder's property. Titleholder will be responsible for all costs associated with the lien.
- Late payment fees will continue to accrue until the full amount of the mmual assessment is paid iu full.

Ifthe account continues to be delinquent at the end of the calendar year, or the amount of t!Ie delinquency (whether for annual assessments, fines or oilier amounts) exceeds $1500 includiug any applicable late fees, collection costs and attomey's fees, as well as any outstanding fines for violations, the Board will authorize foreclosure action against the delinquent titleholder.

Payment plans:

. In cases of demonstrated hardship the Board may authorize the management company to accept a payment plan offered by a delinquent titleholder provided the following criteria are met:

a) The proposed payment plan requires the titleholder to ilmnediately pay 25% of the total delinquent amount owed to the Assembly, including any applicable late fees, collection costs and attomey's fees (the "Initial Lump Sum Payment"); and

b) The proposed payment plan requires the titleholder to pay the remaining balance of t!Ie total delinquent amount owed to the Assembly within nine mont!Is of the Assembly's receipt of the Initial Lump Sum Payment: and

c) The proposed payment plan requires the titleholder to setup automatic bank drafts to Management agent in the Assembly's favor, payable at the first(!) of each month: and

d) If a single payment is missed, the entire payment plan is null and void, and the Assembly shall proceed with lien and foreclosure proceedings in accordance with the policy.

The Board reserves the right to modifY this policy at any time in its sole discretion.

This is to certify that the Board of Directors adopted the foregoing resolution by unanimous consent, effective as of February 28,2013 until such date as it may be modified, rescinded or revoked.

PRESIDENT'S REPORT
FEBRUARY 2013

CREEK CLUB LITIGATION: We have been almost entirely focused on the Creek Club litigation over the past two months. It now appears that the other litigants have reached preliminary agreements to settle the case. The Board has voted to accept the deeds to the docks, ramp, parking lot and waterfront parcel at the Creek Club, as well as to a small parcel located in the I'On Club parking lot and intended as the location for a community center. We are awaiting the final drafts of the settlement agreements.

Depending on the final versions of the settlement, the Board will need to review the 2013 budget to reflect the financial implications for ownership of these parcels, including maintenance, operations, security, and reserve funding. In addition, we will have to develop administrative systems for managing the docks and boating, as well as develop boating rules and fees.

SALE OF SMALL ALLEY PARCEL: Last year, the Board in executive session contingently agreed to convey a small parcel consisting of a strip of the service alley behind 228 Ponsbury to Chuck Hill, owner at 228 Ponsbury, to allow him to create a parcel contiguous with another parcel to be conveyed to him by the I'On Club. This agreement was contingent on the approval by the Town of Mt Pleasant to the reconfigured lot, the granting of an access easement to Mr. Hill's neighbor and a maintenance and repair easement to the Assembly, a promise not to build on the alleyway, and the agreement and actual conveyance of the I'On Club parcel by the I'On Club to Mr. Hill. In addition, Mr. Hill will bear all costs of the transactions, including attorneys' fees. The sale price for the parcel was set at $3000. The Board's attorney has drafted a letter of intent incorporating these terms, signed by the Board president and treasurer, which Mr. Hill is required to provide to the Town as part of his approval process. When all conditions are met, the Board will formally approve the transaction.

*EXPENSE REIMBURSEMENT: As required by the Bylaws, the President requests reimbursement of $23 for parking expenses downtown, once for a meeting with the Board's attorney, and once for attendance at the court-ordered mediation session in February. Receipts are attached to the reimbursement request form.

* Board Action Required

NAME Deborah Bedell
ADDRESS 179 E Shipyard Rd., Mt. Pleasant 29464
TITLE Board President

DATE	VENDOR	AMOUNT	PURPOSE	RECEIPT	LINE ITEM
2/4/2013	Charleston Cty Parking	$5.00	Meeting with Board attorney re Creek Club litigation	,(	
2/13/2013	Charleston Cty Parking	$18.00	Attendance at court-ordered mediation with Board Treasurer and attorney	,(	

TOTAL $23.00

SIGNATURE

Communications Committee
February 28, 2013

COMMUNICATIONS WITH HOA ON LiTIGATION

Recommend WEEKLY updates. Currently people getting poor information from bulletin board and Plaintiff's law firm. No information from us looks like we're out of the loop.

WEBSITE

Committee will review cost/benefit analysis of bulletin board and propose changes. Current abuse of usage rules too frequent to monitor, yet too volatile a topic to temporarily shut down.

DIRECTORY

We are planning to publish the directory back on the original timeline of release at the December Annual Meeting.

NEWSLETTER

The Newsletter will continue its purpose and scope: To distribute the monthly calendar of events in I'On and information relating to future events, planned or proposed. To provide the format for the HOA Board and other committees to provide updates on what's happening in the neighborhood including general compliance issues, amenities usage and the like. To provide space for businesses within I'On to distribute educational pieces to the neighborhood. The I'On Newsletter does not include any editorials, advertising or classifieds.

I'On Trust Report for the I'On Assembly HOA Board Meeting
February 24, 2013

The Oyster Roast on February 10 was a wonderfnl success. Loads of neighbors came out to enjoy food, music and a most beautiful day of weather. We are grateful to our neighbor Lorcan Lucey of Lucey Mmigage Corporation for providing sponsorship.

Coming Events

Home Concert
On Thursday, April4[1]h Chamber Music Charleston will perfmm a concert at a home to be detmmined. The program begins at 7 p.m. Tickets are $35. All proceeds will go to Chamber Music Charleston.

Bridge Rnn Concert
The next major event is the annual Cooper River Bridge Run ConceJi at the Amphitheater on Saturday, April6. Music will be provided by Red Dog Ramblers. The conce1i will last from 3:30 until6:30 p.m. and is free and open to the entire community. Sponsorship is provided by Lucey Mmigage Corporation. Vendors will be on hand with food and beverages.

Amazing Race
We had such a wonderful time last year, we're doing in again! On Sunday, April2l this family-friendly treasure hunt on bicycles where quick thinking beats quick riding comes to I'On. Created for the neighborhood by Creative Spark it will include participation fi·om a number ofl'On businesses and neighbors during the afternoon's adventures. The race will begin at Maybank Green at 2 p.m., and stops at nine other sites will follow to solve clues and complete tasks in order to finish the race. A party will follow on the Green at 5 p.m. Details and registration fmms will be available soon on the Trust website (www.iontmst.org) or you may contact Margaret Summers at msummers@iontrust.org.

2013 I'On Community Garden New Membership & Budget Report

I'On Community Garden

Dear I'On Assembly, 2/12/13

The 2013 !'On Community Garden is off to a great start!

Once again, the requests to get a spot in our community garden was amazing. We had 13families on board within thefirst hour of the newyear after sign in began on january 1st.All30 gardens were reserved by midday,january 3rd. and we have 3 families on the waiting list.

As we begin our 4thyear, we welcome back our returning gardeners and greet our new members who comprise almost one half of our gardeners.

All signed member registration forms and fees have been collected.

Our total membership fees are $1,450. Lastyear one of the gardens was abandoned due to lack of good growing conditions. Wegave that gardener a free plot for her troubles. This accountsfor the $50 short fall on thefull $1,500 subscription.

We continue to be self funding, with our totalfunds on hand as of10/2/12: $2917.68. This combined with the new 2013 membership collections will bring our total availablefunds to: $4,367.68.

Our annual maintenance and refurbishing hasjust been completed and we're scheduled to kick off the spring planting season on February 15th.

The signed registration forms and members checks totaling $1,450.00 will be given to Trisha Elrod later this week.

A copy of our I'on Community Garden StartUp Guide is included for your review.

On behalf of the all of the gardeners and theirfamilies, I would like to thank the HDA for your continued support of this blossoming community amenity.

Regards,

Steve Degnen
!'On Community Garden Coordinator

Compliance Committee Report

1. We have had a few more compliance issues this past month and they are all in the process of being handled. Nothing that needs the Board's attention at this point.

2. Waiting on our attorney to respond in regards to the statute of limitations on the boating issue

3. SCS is working on transferring our compliance / IDC cases to their new system. This will allow us to better track and report progress on each case as needed. We hope to have the new system up and running within the next 30 days.