

# *the* **Sea Breeze**

**PUBLISHED BY HILLSMERE SHORES  
IMPROVEMENT ASSOCIATION**

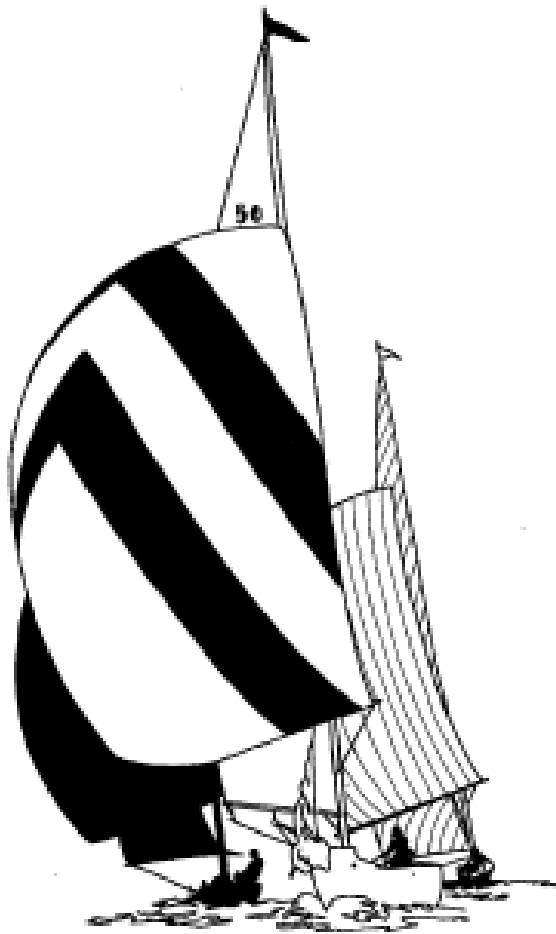
**DECEMBER 2009**

## **PRESIDENT'S COMMENTS**

It's that time of the year again. The leaves are all down and, hopefully, bagged and gone. The weather is getting colder. Soon we'll be watching out for snow. The holidays are here. We've made it through our first massive meal at Thanksgiving and are wondering how we'll manage to get through all the other holiday meals without gaining too many pounds. It's a time for family and friends and gift giving. And, finally, when it's all over, we get to start a new year with a clean slate. What a wonderful time of the year!

Unfortunately, we never get to rest from the issues that continue to challenge our concept of being good neighbors. This issue of *the Sea Breeze* has several articles about the offer or ultimatum (depending on how you look at it) from nine of the property owners along the beach strip. This is an important issue for all of us since there is a real possibility of another adverse possession lawsuit like the one we just went through. We are asking the community to weigh in on what they want the board to do. Please read all the articles, attend the Community Town Hall Meeting on December 15<sup>th</sup>, and send in the ballot that will be in the January *Sea Breeze* with your preference. We need everyone to vote on this important question. I won't say any more about it now. Please read my article (as well as others from HSIA board members) in this issue.

**(Continued on page 3)**



***Look inside for info on...***

**Town Hall Meeting  
The Beach Strip  
Santa's Run and  
Christmas Caroling  
FY2011 Budget  
Garden Club**

*Season's  
Greetings*

**THE SEA BREEZE**

Published by: **HILLSMERE SHORES IMPROVEMENT ASSOCIATION**  
**BOX 3485, ANNAPOLIS, MD 21403**  
**www.hillsmershores.net**

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Vice President	Noel Gasparin	410-263-4456
Secretary	Mark Jones	321-377-2527
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Christina Friday	410-263-7665	Ray Sullivan	781-367-6420
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**2009 BOARD MEETINGS - 7:00 p.m.**

Jan 29	May 28	Sep 24
Feb 26	Jun 25	Oct 29
Mar 26	Jul 30	Nov 19
Apr 30	Aug 27	Dec 17

**2009 GENERAL MEETINGS - 7:00 p.m.**

Jan 8	May 14	Sep 10
Mar 12	Jul 9	Nov 12

**All Board Meetings at The Key School Science and Library Center**

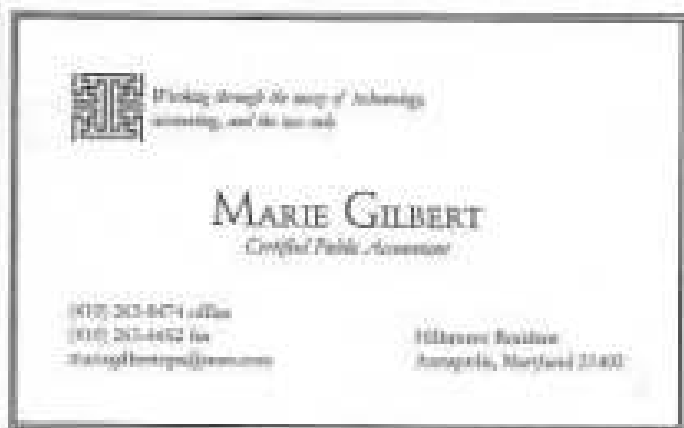
**All General Meetings at The Key School Multi-Purpose Building**


**(President's Comments continued)**

Another issue that is hopefully about to be resolved is the new pool lease. We reached an agreement in principal but there are still a few adjustments to the agreement that are not settled yet. The Hillsmere Pool Association (HPA) has done a very good job of running the pool. However, a very small percentage of our community is using this wonderful resource. The agreement in principal was designed to make the pool more accessible to Hillsmere residents by making adjustments to the types of memberships and adding books of 10 pool passes that residents could buy. A lot of people don't realize that the reason that HSIA is so involved in this whole process is that the pool, buildings, and property belong to HSIA and, therefore, to every property owner in Hillsmere. Although there have been some strong differences of opinion, the HPA Board of Directors have been very willing to work with HSIA to resolve them. I am optimistic that we will have a new lease signed very soon.

I'm going to make my comments short this month since there is so much to read in this issue of *the Sea Breeze*. I want to thank everyone who has worked so hard for our community this year. Kate Penn and the Beach Committee have done a wonderful job of managing and improving the community beach. From play equipment to the new fence to the beautiful rain garden and stormwater control project, they have given a huge amount of time and effort to the community. Ray Sullivan and the Stormwater Committee have also been very active. Along with help from the South River Federation they have made the new rain garden at Phipps and Great Lake come to fruition. You'll see that project completed before the end of the year. Kevin Green did a great job managing our private security patrols and off-duty police officers. Natalie Lobe and Christina Friday served as members of the HSIA board but are now leaving to go on to other things. Noel Gasparin spent many hours making sure our landscaping and grass cutting was done right. He also was instrumental in getting the beautiful new entrance and beach signs. Bill Anderson has worked hard to manage the building permits. Bruce Walker, our Treasurer, has done an absolutely terrific, professional job with our budgets and finances with a great deal of help from Jim Schwallenberg, our paid accountant. Mark Jones has spent many hours making the marina and boat ramps an asset that we all benefit from. Jean Somers, our Administrator, although a paid HSIA employee, is dedicated to keeping your community running smoothly. Most of what you take for granted from Come And Get It Day to beach reservations wouldn't be possible without her terrific effort. I'm sure I missed a few people who have worked very hard. Thanks to everyone who gave of themselves to make our community a better place to live.

Bill Shuman  
President, Hillsmere Shores Improvement Association




  
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# HSIA NEWS

## Community Town Hall Meeting 7:00 PM Tuesday, December 15, 2009 Key School Multi Purpose Building (same location as regular General meetings)

**Q&A session about the beach strip with HSIA board members and HSIA attorney. Please note that this meeting is on Tuesday, not Thursday as our regular meetings are. We will discuss the beach strip offer and possible lawsuit and the options available to our community.**

**ELECT** **Election Results** - Thank you to all the residents that voted in our last election. The Directors listed below will take office on January 1.

Jennifer Adams (67 votes)  
Bill Anderson (77 votes)  
Christian Elkington (82 votes)  
Phil Jones (69 votes)

Kate Penn (77 votes)  
Tracy Stanley (59 votes)  
Ray Sullivan (72 votes)

The following candidates also received votes:

Christina Friday ( 55 votes)  
Mike Glass (7 votes)

Ted Shepherd (2 votes)  
Don Ruland (1 vote)

**FY2011 Budget** - In accordance with Anne Arundel County law, the proposed budgets for Hillsmere Shores Improvement Association for the next fiscal year must be printed in *the Sea Breeze* prior to adoption and distributed to all property owners using labels provided by the County. These budgets will be presented at the HSIA General Meeting scheduled for Thursday, January 14, 2010 at 7:00 pm at the Key School Multi-Purpose Building. In case of inclement weather, we will present the budget at the board meeting scheduled for January 28, 2010 at the Key School Science & Library Center. Please review the proposed budgets that are presented on pages of this issue.

**Come And Get It Day 2010** - Mark you calendars for our 2010 membership drive known as Come And Get It Day. Again this year, we will have Come And Get It Day at the Key School Science & Library Center, rooms 101 and 102. The date is Saturday, February 27, from 10 am to 2 pm. Come and Get It Day is a Hillsmere tradition that gives residents an opportunity to renew memberships, pick up car and trailer stickers, purchase boat ramp keys, and pay for slip rentals, dinghy rack rentals and boat park storage. More information will be in the January and February issues of *the Sea Breeze*.

*The Hillsmere Shores Improvement Association  
wishes everyone a very happy and safe holiday season*

## Community Town Hall Meeting December 15<sup>th</sup> Beach Strip Vote In January

As we reported in the November *Sea Breeze*, we are facing a decision on the beach strip that could result in another lawsuit being filed against us. At the October HSIA Board meeting, we decided to poll the community before deciding on the action that we should take to respond to this development. Basically, nine of the property owners along the beach strip have offered to buy the community property between their platted lots and the water, including riparian rights, for a total of \$130,000 or a little over \$14,000 per lot. Their lawyer made it clear that the offer and its terms were non-negotiable and that if we didn't sell them the land there would be another lawsuit for adverse possession. See below for a more detailed description of the events leading up to this point.

There are several actions that are possible. We could accept their offer of \$130,000 to purchase the community property, negotiate for a reasonable selling price based on the actual value, or we could decide not to sell the property and fight any lawsuit that might result. In addition, if the second option was chosen, we would have to decide what to do if we were unable to negotiate a reasonable price.

In this issue of *the Sea Breeze*, there are several opinions from HSIA board members, on what we should do. We urge everyone to read the articles and think about what action you would like us to take. There will be a Community Town Hall Meeting on Tuesday, December 15<sup>th</sup>, at 7:00 pm at The Key School. Most HSIA board members will be there as well as our attorney. This is your chance to have your questions answered and to express your feelings to the board. I have also created a new forum on our Community Discussion Forum called "Beach Strip Offer/Potential Lawsuit". You can access this from our web site and post your comments and questions. The January *Sea Breeze* will contain a ballot that will allow you to formally express your preference. Please understand that even though we talk about ballots and a vote, this is just a survey of community opinion. By necessity, the decision on which action to take is up to the HSIA Board of Directors. However, provided we get a reasonable number of people returning a ballot, the board is likely to be strongly swayed by the community's preference. This vote will operate the same way as our elections. The big difference is that any property owner will be permitted to vote (one vote per property). You do not need to be a member of HSIA to vote.

As I reported in the September *Sea Breeze*, we received a letter from Will Simmons, the lawyer who represented the plaintiffs in the original beach strip lawsuit. He now represents nine of the other property owners along the beach strip. The letter offered to buy the community property between their platted lots and the water, including riparian rights, for a total of \$130,000 or a little over \$14,000 per lot. The letter made it clear that the offer and its terms were non-negotiable and that if we didn't sell them the land there would be another lawsuit for adverse possession. The HSIA board agreed to accept the offer but retain the riparian rights and ownership of any land currently under water (due to the 1736 Land Patent, which is available on our web site). We felt this was a very generous offer on our part. Since they could never adversely possess the land under the water, we would basically be giving them everything that they could hope to win in court. They refused our offer. They will not accept anything other than the land and the riparian rights. Furthermore, they will not negotiate on the selling price. They then gave us 30 days (until November 20<sup>th</sup>) to accept their offer or they would file suit. The board generally felt that there was no reason to rush a decision on whether we should accept the offer or fight to retain our property. Also, we felt that the community should have a chance to express their feeling on what action we take before we respond to the offer/threat. The HSIA board, at our October meeting, decided that we would inform Mr. Simmons that we will make our decision at the January 28<sup>th</sup> HSIA Board Meeting. The reason for picking that date is to allow time to poll the community on whether they wanted us to accept the offer or fight for the community property. Mr. Simmons agreed to hold off until the January board meeting before taking any additional action.

~Bill Shuman  
President, Hillsmere Shores Improvement Association

# What Should We Do About The Beach Strip?

By Bill Shuman, President, HSIA

The battle to protect our community property from being taken from us by adverse possession has been a difficult one for our entire community. The three plaintiffs who originally sued us, in an effort to seize land that belonged to every member of our community, were acting out of greed and with no regard for the rest of the community. Unfortunately, the courts sided with them, ruling that they had met the legal requirements to take what belonged to us in a hostile act. Now, represented by the same lawyer, nine of the other beach strip property owners are threatening to do the same thing. They have made an offer to purchase the land for \$130,000 or about \$14,000 per lot. I believe that is a ridiculously low price. To characterize it as an "offer" is misleading. Their letter, delivered by their lawyer, stated clearly that if we didn't accept their offer they would file suit to seize our property by adverse possession. Furthermore, they stated that there would be no negotiations. To me, this seems more like a threat than an offer.


Our goal all along in this fight has been to reclaim our community property and establish an area where all of our residents could walk along the water from the current community beach to the sand spit, where the marina is located. When we lost the first lawsuit, it seemed like that was not going to be possible. Then we discovered that Hillsmere had been part of a 1736 Land Grant (also known as a Land Patent). That has the potential to change things for us. Normally, private property starts at the mean high water mark. However, because our land was part of a land grant, our property begins where the mean high water mark was in 1736. This means that we actually own the land under the water. Since the plaintiffs in the original lawsuit were only awarded land to the current water's edge, they would not have riparian rights and we would own the land under the water in front of their lots. We could then restore the beach to create a natural shoreline with a sand beach that residents could walk on and enjoy the beautiful views of the bay. This is why the HSIA board voted to accept the \$130,000 provided that it did not include riparian rights. That was immediately rejected by the nine property owners and brings us to where we are now.

The cost of the original lawsuit was a total of \$39 per lot. That includes all the legal fees plus \$6,000 to survey the beach strip. If we end up in another lawsuit, the cost will likely be even less, since much of the work was already done the first time. So what are our chances of winning? As far as the nine property owners and their ability to take the community property by adverse possession, our chances are pretty good. In the first lawsuit, there was a clear history of fences and hedges being erected and the building of bulkheads. In the current case, six of the nine property owners signed documents with HSIA stating that they were building their bulkheads on community property with our permission. Building these bulkheads cannot be used as an act of adverse possession. Furthermore, all of the nine properties did not erect fences or hedges to block out other residents. The big question is if we will be able to win a legal fight over the riparian rights from the original three plaintiffs. If we are unable to keep those rights then we probably will not be able to restore the beach all the way to the marina.

What would it cost to restore the beach and could we even get permission to do so? Six years ago, when the original lawsuit started, it was generally understood that you could not restore a beach that had eroded away. Furthermore, it was very expensive. Now the state and Army Corp of Engineers are very supportive of restoring natural shorelines. A couple of years ago, when we were discussing the plan to restore the natural shoreline at our current community beach, the Maryland Department of Natural Resources was very interested in helping us to do just that. They offered to provide all the engineering and to finance the entire project with a zero interest, 20 year loan. The law has recently been changed to require natural shorelines instead of bulkheads when possible. We are not proposing to restore the beach strip shoreline any time soon. However, with the mounting pressure to restore the Chesapeake Bay, ten years from now we may be given grants or even have the entire project paid for by the state. My point is that in the future it will likely be possible to restore the beach at a reasonable cost and gain a wonderful asset for our entire community.


**(Beach Strip Opinion continued)**

When you fill out your ballot in January, I urge you to think carefully about how the original three plaintiffs legally stole your property and how nine of their neighbors are threatening to do the same thing. On the one hand, I would like to see us fight to keep the riparian rights so we can restore the beach. However, I also realize that it would be a long and hard fight. While I am confident that we could win the adverse possession lawsuit, we will not be able to restore the entire beach strip unless we also win the riparian rights from the original three plaintiffs. I strongly believe that we should NOT sell the community property with the riparian rights for the \$130,000. In my opinion, that would be just another version of having our property legally stolen from us. If the nine property owners refuse to accept our offer of selling the land without the riparian rights then I think we should either fight to keep our community property or demand that they pay a much higher price. The price should be in line with the great increase in their property values that would result. If we are unable to negotiate a higher reasonable price then we should refuse to sell and fight any lawsuit that may result. Don't let these waterfront property owners who have such little regard for your property take advantage of you again.



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# East Bay View Beach Strip Lawsuit

By Bruce Walker, HSIA Treasurer

HSIA owned a strip of land from the Hillsmere Beach to the Hillsmere marina on East Bay View. This land was granted to HSIA by the Hillsmere Estates developer in 1955. There were 17 lot owners along East Bay View Drive whose properties abut the HSIA land. From 2002 to 2007, your homeowners association, HSIA, was involved in fighting a law suit from 3 of the 17 residents. They claimed adverse possession (sometimes know as squatters' rights) of the chunks of HSIA's beach strip that was between their property and the water edge. The 3 residents won the case in court and won the appeal HSIA filed to reverse that decision. Apparently Maryland law holds adverse possession very highly. As a result, HSIA's beach strip is now chopped up with no land access to the remaining strip. HSIA spent about \$65,000 of your money fighting this lawsuit and lost.

Now, nine more residents along East Bay View Drive have threatened to file an adverse possession lawsuit against HSIA unless HSIA sells them the land that is between their lots and the water edge. They have offered \$130,000 which is about the cost they will incur going to court. If HSIA fights the lawsuit, HSIA will probably spend another \$65,000 of your money. It is hard to tell how a lawsuit would come out. On the one hand, we already lost to 3 of the residents, so the odds are, we will lose to some or possibly all of these nine residents. On the other hand, the 3 residents who won probably had the best cases. One faction of the current Board would like to preserve HSIA ownership to construct a living shoreline that will restore the beach along this beach strip beyond the lot owners' bulkheads. I would think if that was to occur, there would be more lawsuits by the East Bay View residents to stop it. The project cost is also probably prohibitive (in the millions of dollars) for our community to try to restore the beach on its own. Associated with the law suit is: who owns the riparian rights? HSIA offered to accept the \$130,000 offer for the land (subject to Community approval) but not to include the riparian rights. The offer was rejected. HSIA currently owns the riparian rights to at least 11 of the 17 lots. The 3 residents who won in the previous lawsuit believe they have the riparian rights for their lots. For the 3 lots closest to the Beach pavilions, the HSIA beach strip has eroded away and is non-existent. One of the three residents that won in the previous lawsuit has recently obtained a County permit to build a pier and expects HSIA to grant them a Hillsmere construction permit. If we do not, that will be another law suit. There is also the issue of the 1736 King of England land patent which some Board members think gives HSIA ownership of the land under the water out to the 1736 boundaries. The lawyer for the nine residents, the same lawyer who already won in the previous lawsuit, says Maryland passed a law in 1862 which nullified the King's underwater grants.

I think there is little probability of HSIA ever doing anything with what is left of the beach strip and riparian rights. I feel that we should negotiate the best price possible and sell the land to these Hillsmere residents. The HSIA Board would like guidance from the community. Do you wish to spend a minimum of another \$65,000 of your money fighting one or two more lawsuits or would you rather get something for this property by selling it?



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## RECREATION AND ENTERTAINMENT

### Toy Drive and Christmas Caroling in Hillsmere

This year's "Santa Run" sponsored by the Annapolis Firefighters Union will pick up presents at the Hillsmere pool parking lot on Sunday, December 13, at 6:30 pm. Please bring the kids to see Santa and bring a wrapped present with a tag on it with age and gender of the present. For more information, contact Kurt Beall at 410-507-4797 or [heroespub@aol.com](mailto:heroespub@aol.com).

After Santa collects the presents for the needy, join us for a night of Christmas caroling as we celebrate the warmth of the season. We will go to homes in Hillsmere spreading Christmas cheer as we sing traditional holiday songs. All are welcome. Please dress warmly.

Please enjoy this picture from the Halloween parade.



## GARDEN CLUB



Our members were busy in early December creating holiday decorations for the community, Quiet Waters Park, State Circle and the library. Also, a group of ladies decorated a room at the Hammond Harwood House for their holiday program. We hope you enjoyed our efforts to add to the beauty of the season.

In place of a regular meeting in December, we will meet for a holiday luncheon. Our next regular meeting will be on Wednesday, January 20<sup>th</sup>. It will probably be cold and blustery and we invite you to join us for a warm cup of tea (you can even bring your own special cup, if you like) while we learn how to create a miniature flower design. Demonstrating this design technique will be two of our members, Katie

Berry and Millie Sample. We meet at the Eastport/Annapolis Neck Library at 12:30 pm for refreshments, a business meeting at 1:00 and the program at about 1:30. All are welcome to join us. Any questions? Call Jean at 410-268-0276.

From our garden club family to your family ---- we wish you a healthy and joyful holiday season and a very Happy New Year!

## BUILDING PERMITS

An HSIA Building Permit is required: Every time an Anne Arundel County Building Permit is required. The responsibility of obtaining an HSIA Building Permit does not fall on your builder, it falls on you.

The following items are needed to obtain an HSIA Building Permit:

1. A copy of the Anne Arundel County Building Permit.
2. A copy of the construction location on the property when required by the County
3. Cash or check in the amount of \$5.00 made payable to HSIA, unless we sent you a certified letter. Then the cost is \$20 for the permit.
4. Mail to HSIA, P.O. Box 3485, Annapolis, MD 21403



Permits are required for construction of new houses, new sheds, additions to houses or sheds, retaining walls, piers and bulkheads. When in doubt, or if you have any questions, please call the HSIA Building Permit Chairperson, Bill Anderson, at 410-263-4456.

# ITEMS OF INTEREST & FYI

## HILLSMERE READERS

A reminder that this column welcomes your calls for community-related items of interest for services, affinity groups and appropriate announcements. Please feel free to take advantage of this.

**Hillsmere Neighbors** - Admirals Annapolis Yacht Club is seeking new members to join us in enjoying the Bay with raft-ups, crab feasts, cruise trips, and dinner meetings with nautical speakers to name a few of our activities. We are members of CBYCA and currently are headquartered in Bay Ridge with members throughout the area. Our membership is reasonable with \$100 initiation and dues \$25/year per person. Membership does not require owning a boat. Our meetings are held at local restaurants. For further information and an application, contact Commodore Bruce Ratti at 410-268-6163.

**Key School Theater Presents Alice in Wonderland** - December 10, 11, 12 at 7:30 pm. Key School's Katharine Hall, 534 Hillsmere Drive, 410-263-9231. Tickets are \$8 and available at the door.


**Prevent Identify Theft** - (A message from the Anne Arundel County Police Community Relations Council) Identity theft is one of the fastest rising types of crime today. It can give everyone a cause for worry since most personal information can be retrieved from your documents. However, a simple step can protect you from this common crime. You can reduce the risk of identity theft by simply shredding your files before throwing them away. It has already been determined that criminals usually go over the trash and find important information that can be retrieved. The information that they can get makes it possible for them to assume the true owner's identity and make new financial transactions at your expense. One great thing about shredding is that it is a cheap way to protect yourself from identity theft. The best paper shredder is the cross-cut shredder because it is more difficult to bring back together the small chunks of paper. The shredder itself is lightweight and easy to use. This step can provide significant protection to your finances and personal safety. Do not be another news story about identity theft. Start taking steps to stop identity theft from happening to you.

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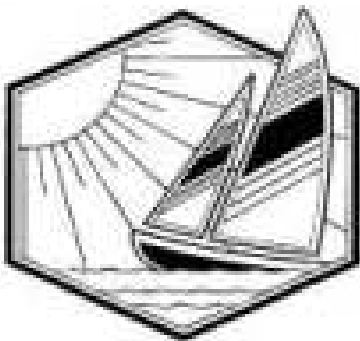
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# December 2009

Sun.	Mon.	Tues.	Wed.	Thurs.	Fri.	Sat.
		1	2	3	4	5
6	7 Pearl Harbor Day	8	9	10	11 Hanukkah begins at sundown	12
13 Santa Run & Caroling	14	15 Town Hall Meeting	16	17 HSIA Board Meeting	18 <i>Sea Breeze</i> deadline	19
20	21	22	23	24 Christmas Eve	25 Christmas	26 Kwanzaa
27	28	29	30	31 New Year's Eve		



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