

NEW MARK COMMONS HOMES ASSOCIATION
BOARD OF DIRECTORS MEETING
THURSDAY, JANUARY 3, 1991

ATTENDEES: Howard Groedel, Rick Kahn, Rose Krasnow, Mitch Shein, Connie Tonat, David Wolfe, Robert Roddy, Judy Rudolph.

The meeting was called to order at 7:40 P.M. by Vice President Howard Groedel. Robert Roddy of 17 Welwyn Way was present at the Community Forum to discuss several concerns. Foremost was his suggestion that the Board should look into the possibility of separating pool membership from Association membership. He felt that our pool was underutilized and that many residents were paying for its operation even though they never used the facility. The Board responded that such an idea would be difficult to implement given the covenants, that it would be divisive, and that it might lead to the demise of the pool if a sufficient number of members were not found. Mr. Roddy also felt that it was inequitable to base the dues on the number of bedrooms, since frequently only two people lived in a four bedroom home, but again, the Board pointed out that the dues structure was established in the covenants. Finally, Mr. Roddy said that his single family circle was experiencing difficulties because one neighbor (Mr. Freeman of 15 Welwyn Way) would not allow anyone else to park in the circle because he did not like to look at vehicles from the windows of his house. It was not known how ownership of the circle was divided among the four homes, but the Board agreed to let David Melnick try to mediate the situation.

Judy Rudolph was upset that the community sidewalks had not been shoveled during the December snowstorm. She pointed out that the community was liable if anyone was hurt. Rose said that Rick was on vacation during the storm, but that he always cleared New Mark Esplanade and Welwyn during a storm. The Board agreed that Rick should also clear Scandia, the bike path including the smaller paths leading into the townhouse areas, and any sidewalks that did not have townhouses fronting them (such as the walk from 316 NME down toward 318). Rose was asked to put an article in the newsletter reminding townhouse residents that they are responsible for the sidewalks in front of their homes.

Judy also was concerned that rentals in New Mark would now increase because the real estate market was so slow, and she felt that rental properties produced a disproportionate number of problems, including parking problems (rentals often had 3 or 4 cars) and maintenance problems (upkeep of rental properties was not usually equal to upkeep of owner occupied units). Judy wondered if a committee could be appointed to look into possible covenant changes that would give the Board more control over these units. For example, Judy said that in some communities, the dues are higher for rental units. The Board understood Judy's concern but felt that any attempt to regulate the number

of rental units might seriously hurt owners who needed to move but couldn't sell due to market conditions. Howard and Rick felt that trying to regulate who could come in smacked of bigotry. Nevertheless, the Board agreed that it would be a good idea to write to all absentee landlords at least twice a year to let them know what was happening in the community. If they were kept better informed, it was hoped they would take greater care of their unit. Rose also agreed to write a newsletter article on this issue to see what type of feedback it generated from the community.

The minutes and agenda were approved as read. There were no officer or committee reports. Rose reported that letters had been sent to the owners of 1 Bentana Way and 6 Vallingby informing them that they were undertaking exterior changes to their home although neither had filed an architectural control application.

Under old business, the Board discussed the Farrell/Wenhold roof issue. Members had received copies of David Melnick's letters to Dee and Paul. Both had been given thirty days to respond, and that deadline had not yet passed. The Board agreed that the entire situation had been handled poorly because the Board had tried to be too nice. Once it was determined that the roofs were in violation of the covenants, the Board should have acted more assertively. The Board worried that architectural control enforcement was too arbitrary and that a better procedure for catching violators was needed. It was agreed that architectural control should be the main topic on the February agenda.

The meeting was adjourned at 8:55 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, FEBRUARY 7, 1991

ATTENDEES: Howard Groedel, Rick Kahn, Rose Krasnow, David Melnick, Mitchell Shein, Connie Tonat, David Wolfe, Don Gangloff, Sima Osdoby, Mark Wetterhahn, Marty Reiss; Steve Silverman, attorney for New Mark; and representatives from Tower Oaks including Bill Kominers, attorney with Linowes and Blocher; Arnold Kahn, General Counsel; and Tom Miller, head of Construction.

The meeting was called to order at 7:40 P.M. Discussion centered on whether or not Tower-Oaks has been abiding by the stipulation. Sima pointed out that in negotiations six years ago, New Mark wanted Tower Oaks to give the community the ten acres school site outright. The clause calling for the ten acres to be developed residentially as part of New Mark was a compromise. In addition to retaining architectural control, it was assumed that the community would profit by receiving a fee from the developer for the right to use our recreational facilities. Marty pointed out that the decision to use more than 3 acres of the ten acre site changed the premises underlying the entire stipulation. Mark went further to say that Tower Oaks had not acted in good faith for several years, since they denied all knowledge of any plans for the ten acres for many years when they clearly knew that wetland studies were underway. Therefore, New Mark saw no reason to change the stipulation, which might lead to commercial development in the remainder of the ten acre site. New Mark needed to see a definite plan of development before any decisions could be made.

The discussion then turned to reducing the impacts of wetland construction on New Mark. Tom Miller, head of construction, showed a drawing that revealed not one, but two, haul roads off Don Mills Court. One would be located at the existing dirt road; the other would be near the infiltration basin adjacent to 9 Don Mills Ct. The roads would be used to haul stone, heavy equipment, straw, and so forth. Tower Oaks said that two roads were necessary because the haul road could not cross the existing wetlands. When asked why the trucks could not approach from the South, New Mark was told that these were fleet vehicles belonging to subcontractors. They needed access by established roadways. According to Tower Oaks, the I-270 access road built during the widening of I-270 was state owned and could not be used.

Tower Oaks had hoped to start the construction process in June. The community asked that the date be postponed until September when more people would be indoors, and there would be less dust. Rick Kahn asked if construction was being coordinated in any way with construction of the City's infiltration basin, but it quickly became apparent that it was not. Rose pointed out that the roads in New Mark were to be repaved this Spring, and she wondered if Tower Oaks would be responsible for any damage that

might occur. Residents were also concerned that too much dust and noise would be generated by the construction and that the two haul roads would attract undesirables into the area.

After the representatives from Tower Oaks left, the Board agreed that Rose should appear before the Planning Commission to support the plans for Tower Oaks Blvd. North in concept while asking that the city maintain some control over the process of wetland construction to insure that the impacts on adjoining communities be minimized. Steve Silverman said that we needed a clear idea of the goals we hoped to achieve. Ralph, Mark, and Marty were appointed to a subcommittee to work on some basic principles.

The minutes were approved as read. Rose added the recent wave of crime to the agenda.

The Farrell/Wenhold roofs were discussed with our attorney, Steve Silverman. Dee Farrell had submitted a signed contract from a roofer showing that she would change the color of her roof once the weather warmed up, but Paul Wenhold had consulted Richard Ehrlich, an attorney. Based on the options presented, David Melnick moved that the Board authorize counsel to present our alternatives to Mr. Ehrlich. (Legal options purposely withheld from minutes). Mitch seconded the motion which passed unanimously. Steve would consult with the Board again once Ehrlich's response was obtained.

In view of the very broad guidelines for Architectural Control contained in the Covenants, the Board agreed that more substantive rules were needed to make it easier for community residents to comply and to serve as a tool in any arbitration or legal proceedings. Steve Silverman said that he could supply examples from other Associations, and Connie Tonat volunteered to head up a committee charged with drafting the new guidelines. The Board also decided that this was the ideal time to bring new faces to the Architectural Control Committee. It was decided that the Board could best understand the needs and workings of the Committee if three of its own members filled the vacancies. Rick Kahn, Howard Groedel, and David Wolfe volunteered.

Since Rockville had adopted the County's towing law, the Board considered whether an extensive "sign" policy was now necessary in the townhouse area. Because the number of complaints received was still quite low, the Board tabled the issue. David Melnick agreed to review our existing parking regulations to see if they needed to be revised.

Steve Silverman notified the Board that two issues relevant to HOA's were before the State legislature. One involved changing the existing lien procedure to eliminate the need for a court order. The second provided that an Association could recover attorney fees in covenant enforcement cases. Both bills were favorable from an Association standpoint. Since Silverman's firm planned to work for passage, New Mark could participate by paying

\$250.00 if it wished to support one bill or \$400 if it wished to support both. No action was taken.

Rose reported that Mike Zaruba of 850 NME owned a Rottweiler that recently tried to attack the mailman. Since the Association lacked any authority in this matter, residents were to be advised to call the city's Animal Control Division if there were any more problems.

The Board was briefed on the sudden rise in crime in New Mark recently including several burglaries and one armed robbery. It was agreed that if enough people signed up for the Neighborhood Watch Program, the required community meeting could be held as part of the Annual Meeting.

Thursday, March 21st, was selected as the date of the Annual Meeting. Rose reminded the Board that there would not be a Board meeting the first Thursday in April. The meeting was adjourned at 10:30 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC
BOARD OF DIRECTOR'S MEETING
THURSDAY, MARCH 7, 1991

ATTENDEES: Alexandra Bry, Howard Groedel, Rick Kahn, Rose Krasnow, David Melnick, Mitch Shein, Connie Tonat.

The meeting was called to order at 7:45 P.M. by President David Melnick. Alexandra Bry of 6 Tapiola Court distributed a letter she had written to the State Department of the Environment concerning the noise problems expected during wetlands construction. The state promised that noise standards would be enforced. Rose reported that several residents of Don Mills Court had walked the site with Tom Miller, head of construction for Tower Oaks on Monday, February 18th. The proximity of the construction to the homes on Farsta, Tapiola and Vallingby had come as somewhat of a surprise. Mark Wetterhahn wanted to write an open letter to the community to make them aware of the impact the construction was going to have. David Melnick asked that responses to the letter be directed to the wetlands committee, not to the Board.

The Board noted that Ralph Mittelberger had missed several meetings due to increased commitments at work. David agreed to talk to him to see if he wished to remain on the Board.

Under correspondence, Rose read a letter from John McCullough of 1212 Potomac Valley Road which made several suggestions about ways to prevent "outsiders" from coming into our community (a reaction to recent crime problems). The Board had also received a letter from Robert Walkington of 326 NME asking that he be reimbursed for the \$250 insurance deductible he had to pay after a community tree fell on his roof. Mr. Walkington had sent a contractor's proposal for making the repairs, but the proposal was not signed. The Board agreed that if Mr. Walkington could provide verification of his out-of-pocket expense, he would be reimbursed.

Richard Montgomery had written to request a donation for their alcohol-free prom activities. Discussion centered on whether the Board should commit community funds to an outside organization, even when that organization was the school attended by residents of New Mark. Howard moved that New Mark make a \$25.00 contribution. David seconded the motion, which passed by a 3-1 margin (Rick Kahn voted against).

Herb Brubaker had written David concerning the ongoing trash problems in the 100 block. He hoped the Board could come up with a way to effectively enforce the covenants, which state that trash can only be left out on trash collection days. The Board felt that our covenants did not provide any adequate remedies, but it was hoped that the City's Licensing and Inspection Division might be able to provide enforcement under the Property Maintenance Code. Our attorney, Steve Silverman, could also be consulted to see if a system of fines could be instituted.

Rose reported that 37 people still had not paid the first installment of their homeowner's dues, but she felt that most of these would come in once reminder letters were sent out. The 1990 audit of New Mark's books had been successfully completed. Our accountant, Monte Loeb, was concerned that we had too much money in "undesignated reserves". These were funds that had accumulated over the years from operating funds that were not expended. Since interest was being earned on these funds as well, the amount had grown to \$90,000. Mr. Loeb suggested that we might want to place some of these funds into our designated reserve account. However, money placed into a designated reserve account could only be used for very specific purposes. Rick suggested that we spend some of the money in ways that would benefit the entire community. For example, the funds could be used to provide more lighting. Howard suggested that it might be time to resurface the tennis courts. The Board felt that a playground in the area just south of the tennis courts was a good idea. Although several years earlier the community had spoken against such a playground because it feared the increased liability, the Board felt these fears were unfounded as long as we installed a well constructed playground using only licensed equipment. Rose agreed to talk to the City to see if we could get such equipment at cost. Rick moved and Mitch seconded the suggestion that the community should purchase a pool cover, which would save on water costs, cleaning costs, and whitecoating costs. The cover would cost between \$6000 and \$6500. Rose requested that the community purchase a new computer, since she had always used her own and it was becoming obsolete. She pointed out that it made more sense for the community to own the computer instead of paying \$600.00 per year in user fees. Rick moved that the Board buy a computer, increase the budgeted amount for fans by \$1000 (so more durable fans could be purchased) and approve the installation of a new floor in the clubhouse kitchen. Connie seconded the motion, which passed unanimously.

Under new business, Rick Kahn wondered if the Board had adequately addressed the concerns of the swim team parents. David stated that the swim team was a legitimate group but had no authority to manage the pool. Such authority rested with the Board. Either Tim or the swim team could bring their concerns to the Board. Linda had presented David with a list of Coach's duties, and David planned to present it to Tim for review and comment.

The meeting was adjourned at 9:45 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, MAY 2, 1991

ATTENDEES: Geoffrey Becker, Mercia Decker, Rick Kahn, David Melnick, Mitch Schein, David Wolfe, Jim Denny, Mike Miller, Rose Krasnow, Mike Keale.

The meeting was called to order at 7:40 P.M. by President David Melnick. Jim Denny of 514 NME was present at the Community Forum to present a petition signed by residents of the 500 block asking the Board to install a street light in their area. The Board agreed that the 500 block should be given top priority if additional lighting was installed, since no light was there at present. The Association had received costs from Asplundh for conversion and maintenance of the community's privately owned lights. It would cost \$458.55 to convert all five mercury vapor lights to sodium. Maintenance costs would be \$13.00 a year for each light (currently there are 10), and repairs would be guaranteed within 48 hours. Once every five years, new bulbs would automatically be installed at a cost of \$29.98. The Board agreed that such an arrangement would be to New Mark's advantage. Once the conversions were made, Asplundh would work up an estimate for installing additional lighting. Rose was asked to distribute a report to the Board detailing those areas most in need of additional lighting, based on the results of a night time walk-through.

Mr. Denny also wanted to make the Board aware of the erosion problems behind 508-516 NME, which tied in directly to the presentation offered by Mr. Michael Keale of Country Club Landscaping. Mr. Keale had worked up a plan for dealing with erosion in eight different areas of the community. Prices were quoted for each of the eight areas, and there was no need to do everything within one year, although material and labor costs might have to be adjusted upward as time passed. A lengthy discussion ensued, with Board members asking many questions including the following:

- 1) Would we need to get storm water approval from the City?
- 2) What if the existing PVC drain pipes were so old that they couldn't be connected to the new pipe?
- 3) Was some of our drainage coming from Fireside?
- 4) How can we be certain that these measures will solve our problems, particularly since stone has been put down before?
- 5) Will children climb on the permacrib? Can it stand up to water?

David Melnick proposed that the Board tour the area before the next meeting so that a more informed decision could be made.

The minutes and agenda were approved. Under correspondence, the Board discussed the renewal of our retainer with Attorney Steve Silverman in light of the fact that his fees had gone up from \$1200 to \$1500 for the retainer itself and from \$90/hr. to \$100/hr. for additional work. Overall, it was felt that the fees were not out of line, and that Steve was one of the few lawyers around who specialized in HOA matters. Rick moved that the retainer be renewed. David Wolfe seconded the motion, which passed 6 - 0.

Phyllis Stang of 516 NME had written asking the Board to take down a tree that was equally divided between her property and the Association's. She also wanted the Association to provide landscape timbers so that she could build a small retaining wall. Although the Board agreed that the tree was not particularly attractive and was growing toward the house, it did not seem to pose any danger. Therefore, if Ms. Stang wanted to have the tree removed, she could do so but at her own expense. Likewise, if the retaining wall was to be on her property, she would need architectural approval and she should be responsible for the cost. If it was on Association property and was deemed to be a worthwhile improvement, the community would build it and would assume responsibility (as well as liability) for it.

Linda Silversmith had written asking that the Board allow her to paint "Don't Dump, Chesapeake Bay Drainage" above each storm drain in the community. Although unenthusiastic about the idea, the Board did feel that it might be worth a future

newsletter article to sound out the community's opinion.

The following names were placed into nomination to be officers of the Association for the coming year:

David Melnick, President
Rick Kahn, Vice President
Mercia Decker, Treasurer

All three were elected by acclamation.

Mike Miller, Chairman of the Property Maintenance Committee, reported that the second annual survey of the community would take place in May. He wanted to know the Board's plans after May 21st, the end of the 60 day period granted to the Korbs of 274 NME to fix up their property. Steve Silverman had suggested that he should also send a letter to the Korbs, because he said few cases such as this ever had to be taken to court and a letter from a lawyer usually proved convincing. David Melnick moved that we authorize Steve to send such a letter. Mercia seconded the motion which passed unanimously. The Board felt that we could probably get contractors who would enter the property if necessary, even though the owner was not authorizing the work. Rose agreed to get bids on both the fence and the walk. Geoff Becker was appointed as the Board representative to the Property Maintenance Committee.

At the April meeting the Board had decided to offer the option of binding arbitration to Paul Wenhold of 106 NME for the second time in an attempt to get the roof issue resolved. Wenhold's lawyer responded that binding arbitration was still not acceptable. After considerable debate, David Melnick moved that we tell Steve Silverman to initiate a court proceeding that would require Mr. Wenhold to change the color of this roof to the approved color or to another color approved by Architectural Control. Geoff Becker seconded the motion, which passed by a vote of 4 - 1. (Mercia abstained, David Wolfe voted nay). The Board recognized that the community would probably be divided over the issue. David Melnick agreed to write an article for the newsletter explaining the reasons behind the Board's decision to seek a legal remedy.

Rose reported that the Neighborhood Watch effort was slowly expanding to a greater number of streets. She suggested that the community should install 7 signs - one at the front entrance, one at Welwyn Way, one at Scandia, one as you enter the community from Dogwood and one in each of the three main townhouse areas. The signs cost \$39.00 each, and Rose wondered if the Board was willing to pay for them. Generally, members felt that the Board should pick up the cost, as long as a majority of the community was participating in the program.

The meeting was adjourned at 11 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC. \\
BOARD OF DIRECTORS MEETING
THURSDAY, JUNE 6, 1991

ATTENDEES: Sally Guardia, Beverly Davis, Mike Miller, Connie Tonat, David Wolfe, David Melnick, Geoff Becker, Mercia Decker, Rick Kahn, Mitchell Shein, Rose Krasnow.

The meeting was called to order by President David Melnick at 7:35 P.M. Sally Guardia was present to voice her unhappiness over the Board's decision to take Paul Wenhold to court over the matter of his non-conforming roof. She felt too many things in New Mark were not being done, so why was the Board expending time and resources to go after a good resident like Paul. Board members pointed out that Mr. Wenhold had not filed an architectural application, even though notices had appeared on every invoice and in every newsletter. Others who had adhered to the process had been rejected when a light color roof was planned. Moreover, David Melnick pointed out that Mr. Wenhold had been unwilling to submit the matter to binding arbitration, an alternative offered by the Board on two separate occasions. Sally wanted the matter to be put to a vote of the community, but the Board felt her suggestion was impractical and unnecessary since the Board was exercising its proper authority. As a final request, Sally asked the Board to plant a new magnolia tree in the 100 block, since the neighbors felt Rick had trimmed far too much from the one near Paul's house.

The minutes and agenda were approved as read. Eva Matsumoto had written to the Board asking if action could be taken against John Flocks, whose hedges were overgrown and effectively blocked her view of the lake once again. No recourse seemed to be available to the Board. Herb Brubaker had written to David Melnick to complain about garbage being left for days on the common grounds. Since the problem was becoming more common, Rose was instructed to ask Steve Silverman what would be required to impose a system of fines for petty problems such as this. Mitch wondered if we would have to resort to filing liens to collect a \$25.00 fine, but it was felt that frequent offenders might accumulate substantial fines. Mike Miller pointed out that Inverness had successfully imposed a system of fines. He suggested we talk to Dorothy Zankel.

Under committee reports, Mike Miller said that all the property surveys had been completed except for the 200-300 block of the Esplanade. Two members of the committee would now double check each unit surveyed to insure that the repairs being requested were reasonable. With respect to 274 NME, the committee did hear from Andy Korb, who lives in the unit and is the son of the owner. Andy promised to fix the walk but waffled with respect to the fence. The Board agreed that another letter should be sent by Steve Silverman giving the Korbs a set number of days to procure a signed contract.

Pool Liason Mitch Shein had spoken to Tim to assure him that the Board was behind him 100% and to let him know that swim team requests and complaints were to be directed to Mitch, not to Tim. Nevertheless, Mitch reported that Tim still felt threatened and had clearly indicated that he would not be back next year. The Board approved the expenditure of \$198.00 to provide adult and child CPR to all pool personnel. The Board also decided that money raised from the sale of the old pool chaise lounges should be used to get a gift for Tim and Ann at the end of the year.

The City finally sent New Mark a water bill for the last five years. The bill, totalling \$6,087, could be paid over a five year period. However, since the community had put enough money into an escrow account to cover the bill, Rose wanted to know if we should pay it off all at once. The Board wanted to know if we would get a discount if we paid the entire amount up front.

Rick Kahn gave an update on the work of the playground committee. The group was looking at equipment that met all state and federal requirements so that, should an accident occur, the Board should not be found liable. Equipment made of timbers, not colored metal, would be chosen to conform with the rest of the community. Prices (for equipment only) for a small playground ranged from \$1500 up to \$7500. The committee was seeking guidance from the Board concerning how much the community would be willing to spend. Other questions included 1) What material would provide the best ground surface - gravel, sand, mulch, or pebbles? 2) Do we want benches for parents? 3) Do we want garbage cans? 4) What is the best location? 5) Should the committee seek participation from townhouse residents. The area south of the tennis courts near the horseshoe pit was deemed to be the most likely location, although David Wolfe was concerned that the noise generated would bother tennis players. David Melnick moved that we authorize an expanded playground committee (which would include 2 TH representatives) to prepare a study for a mid-size, mid-price playground in the area south of the tennis courts or in other locations that may be feasible. Geoff seconded the motion, which passed unanimously.

Under Architectural Control, Mile Miller wanted to place wooden railings along each set of steps leading to his home. The Architectural Control Committee had approved the idea in theory, but one set of steps fell on common land, raising several issues. Could Mike have the fence installed on common ground? Who should pay for it? Was the Board willing to assume the liability of the railing? Although it was pointed out that the original railings in the community were iron, the Board agreed that a wooden railing would be much less expensive and seemed compatible with the use of wood elsewhere in New Mark. It was finally agreed that Mike would pay for the materials but Rick would install the railing.

Under old business, the erosion problem was addressed. Rose handed out copies of a proposal received earlier that day from Schnabel Engineering. Mercia explained that she had contacted an engineering firm because she was concerned that the work proposed

by Country Club Landscaping might not be the right solution. Before investing \$100,000, she felt it was important that we know just what we are looking for. David Melnick said he worried that if we hired an engineer we might end up with a large, costly assessment of the problem that wouldn't really get us anywhere. Schnabel's proposal consisted of 3 parts. Part 1 involved a site assessment and a review of Country Club's proposal at a cost of \$1800.00. Rick Kahn moved that we ask Schnabel if they would agree to review the Country Club proposal at an hourly rate to determine if it will provide the solution, if there are better alternatives, and whether the price is competitive. David Melnick seconded the motion. Six Board members voted in favor of the motion. Mercia abstained.

Rose reported a rash of car burglaries in the past week. All the vehicles were unlocked. Since the police felt that kids were at fault, it was suggested that a warning be placed in the newsletter stating that if the responsible party or parties were found, the Board would prosecute. The Board agreed to purchase 7 Neighborhood Watch signs at a cost of \$39.00 each. Rose also explained that we were experiencing problems with the Clubhouse Alarm stemming from the fact that the phone line connecting the alarm to the company was no longer working. To complicate matters, C&P had no record of any such line, and the community had never in the past been billed for it. The Board felt that a working alarm was essential, and instructed Rose to have a new line installed.

Under new business, Rose said that many complaints were received regularly about the look of the front island. However, the design had been done by an elderly New Mark resident, Helen Reed, so Rose wanted to know if the Board wanted to risk offending her in order to redo the island. David Melnick moved that the Landscape and Grounds Committee come up with a plan to upgrade and revamp the front island. The plan should reduce the amount of maintenance required and should make use of new plants appropriate to the community. Mercia seconded the motion, which passed unanimously.

The Board also urged that the Architectural Control Committee along with Connie Tonat and Mercia Decker try to speed up the development of Architectural Control criteria to help people know just what they could and could not do.

The meeting was adjourned at P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, JULY 11, 1991

ATTENDEES: Geoff Becker, Mercia Decker, Rick Kahn, David Melnick, Mitchell Shein, Connie Tonat, David Wolff, Rose Krasnow, Mark Wetterhahn.

The meeting was called to order by President David Melnick at 7:35 P.M. Mr. Bob Carty of 262 NME had planned to come to the Community Forum, but David M. had called to tell him that the Association would continue to mow the small piece of privately owned land in front of his house. Since Rick has mowed several privately-owned pieces of land for years, residents had come to expect it. The Board felt that this practice should continue because it was so important to the overall appearance of the community.

The minutes and agenda were approved as read. Under correspondence, the city had responded affirmatively to New Mark's request for additional lighting on Potomac Valley Road and on the Harlow Court path. The former would cost about \$10,000, so it would have to be put into the CIP for '93, but the Harlow lighting would be done this year.

Other correspondence included the grant application for funds from "Keep Montgomery County Beautiful". The Board felt that Landscaping and Grounds might apply for funds to redo the front island. Rose also announced that the CAI convention would be held in late October in Washington, D.C.

Under committee reports, Mark Wetterhahn summarized some of the negative impacts the community could expect from construction of the wetlands. These included truck traffic, smoke and odor from burn pits, and noise. The drafting of an agreement to regulate these impacts was almost complete. One unresolved issue was what effect the construction of the wetlands would have on the 1985 Stipulation between New Mark and Tower Oaks. Tower Oaks clearly hoped New Mark would now be willing to drop the paragraph in the stipulation requiring that the 10 acres be developed residentially as part of New Mark. Mark felt that they hoped to put in some sort of commercial development on the remaining seven acres with the site to be accessed from the south. For the time being, however, both sides had agreed to leave this issue alone. The question of monetary compensation also was unresolved, although Tower Oaks seemed agreeable to an in-kind contribution. Rose suggested that they might provide New Mark's new playground.

Tim and Ann Stewart had submitted a letter of resignation from their duties as pool managers, effective at the end of the 1991 pool season. David M. moved that Mitchell Shein be put in charge of the search for a new manager or a management company. Mercia seconded the motion, which passed unanimously. Mitch hoped to develop a job description by talking to Tim and by soliciting

information from the Swim Team. He also hoped to visit different pools during the month of August.

Regarding property maintenance, Rose was unsure how to proceed with repairs at 274 NME, since Steve Silverman felt that any contractor hired by the Board should sign a waiver exempting the Board from liability. David M. did not feel the waiver was essential.

The Board felt that Bob Walkington's woodpile, which he keeps on common property, had gotten too large to be ignored. David M. agreed to write him a letter giving him 30 days to move it to his own property or the community would claim it.

Rose alerted the Board to the fact that the storm on Sunday, July 7th had caused a great deal of damage to community owned trees. The clean-up costs were unknown but were expected to be high. In the aftermath of the storm, several people wanted to remove entire trees which they felt posed risks to their homes. Rose wanted to know what the Board's policy would be vis a vis these requests. Rick saw no reason for the Board's position to change; the storm had created a certain amount of hysteria, but such a storm was unusual. It was agreed that the Landscape & Grounds Committee should handle each tree request. Mercia suggested that for every tree taken down, a new tree should be planted.

The owner of 318 NME had applied to the Architectural Control Committee for permission to install lighting along a pathway leading up to his front door. Since part of the pathway was on community property, the committee wanted the Board's opinion concerning liability. The Board approved the request if the owners were willing to sign a letter agreeing that they would both pay for and maintain the lights.

The Architectural Control Committee ruled that the fence at 1 Bentana was not in compliance with New Mark's Architectural Control Guidelines in terms of both style and location. They also felt that the gravel used to widen the driveway was out of harmony, although a concrete extension could probably be approved. The new light fixtures were deemed acceptable. David M. agreed to write a letter to the Hales of 1 Bentana Ct. to inform them that the fence would have to be removed and that an application to extend the driveway should be submitted. The letter would emphasize that none of these modifications had been applied for, even though the owner had been notified in December of '90 of the need to follow the Architectural Control process.

Rose pointed out that Dee Farrell still had not changed the color of her roof even though she had agreed to in writing during the winter of '91. Should she be given a specific date to complete the work or was it reasonable on her part to await the outcome of the Wenhold court case? Rick Kahn moved we do nothing about the Farrell roof but there was no second. David Melnick moved that the Board write a letter requiring the roof to be changed by a certain date. Geoff Becker seconded the motion which carried by a 3 - 1

vote. (Connie, David M. & Geoff Becker voted in favor; Rick voted against, and Mercia, Mitch, and David W. abstained).

Steve Krasnow told the Board that it seemed much cheaper and easier to hold the 25th Birthday Party off-site at a place such as Smoky Glen. The Board differed, however, and gave the committee three guiding principles:

- 1) The party or parties should be on-site.
- 2) The events should give all New Mark residents a chance to participate, even children.
- 3) The event would be subsidized by the Board.

It was suggested that a daytime, perhaps daylong, event be planned for families with an evening affair for adults only. More casual fare was suggested.

The Board tabled the fishing issue to a later meeting.

The playground committee reported that another townhouse member was still needed before any decisions could be reached. Rose agreed to find another townhouse representative.

Under old business, David M. pointed out that Schnabel Engineering had not been willing to evaluate our erosion proposal on an hourly basis. Therefore, David moved that we go ahead and hire Country Club Landscaping to address the worst area (Area 6 behind the 500 block) and then evaluate how best to proceed. Mitch seconded the motion, which passed unanimously.

Three members of the Board said they would be out of town for the August 1st Board meeting. Since the remaining four were enough for a quorum, it was agreed to proceed with the meeting on that date.

The meeting was adjourned at 10:30 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, AUGUST 1, 1991

ATTENDEES: Rick Kahn, David Wolfe, Mercia Decker, Rose Krasnow, Joan Gray, Bob Schreiber.

The meeting was called to order at 7:40 P.M. by Vice President Rick Kahn. Since only three Board members were present, there was not a quorum. Joan Gray and her husband, Bob Schreiber, were present at the Community Forum to voice their opposition to the proposed playground. Joan pointed out that the playground idea had been quashed once before because it opened up additional liability for the community. Moreover, the playground would attract vandals and older children who would break the equipment. Rick Kahn replied that the Board was open to suit anytime someone was injured in the community - whether on a set of steps, in the pool, on the bike paths, etc. However, as long as the playground equipment met all Federal safety regs, was set up by licensed playground installers, and was kept in good condition, the Board should be able to withstand a suit.

Approval of the minutes was postponed to the September meeting when a quorum would be present.

Rose reported that the community had received a check from the County's Road Reimbursement program in the amount of \$1262.40 as well as a check from Orkin Pest Control for \$52.23 which represented New Mark's share of a class action lawsuit. The Calverton Swim Club had written to request that we send a representative to an informational get-together of all Montgomery County Pools on Sunday, August 11th. It was not clear whether anyone from New Mark would be able to attend. Information received about the Cabin John Lake issue was distributed to Board members for further review. Other incoming correspondence included the police report on Harvey Scali, a resident of New Mark whose body was found by Rick in the Clubhouse parking lot. Under outgoing correspondence, Rose read the letter that was sent to Robert Walkington, requesting him to remove his woodpile from the common grounds within 30 days.

Under officer and committee reports, Rick Kahn reported that the playground committee had not really gotten started because everyone was on vacation. David Wolfe suggested that we check with both our insurance agent and our attorney to determine whether a playground would significantly increase our risk of being sued. If we were sued and lost, just how much would our rates go up? He hoped that these answers could be obtained in writing. Rick pointed out that the Board should not let its actions be controlled by a fear of liability. The Board's primary purpose, he felt, was to provide services that met the community's needs and desires while insuring that the community was not being exposed to undue risk.

Mercia Decker said that she and Connie Tonat had put together a working draft of proposed Architectural Control guidelines. She hoped to distribute it to the Board before the next meeting. Rick asked that the Architectural Control Committee be allowed to review the document before it was given to the Board. Rick also agreed to serve as the Chairperson of the Architectural Control Committee.

Several architectural control disputes were discussed. Rose reported that she and David were in the process of answering the interrogatories requested by Paul Wenhold's lawyer. The Hales, of 1 Bentana, had received a letter from the Board giving them 30 days to remove the fence they had built in their front yard. Rick Kahn agreed to call the Hales if the fence was not taken down by the August 16th deadline. Rose brought the Board up to date on the situation at 505 NME where a great deal of work had been done by the new owner without Architectural Control Approval and before settlement had occurred. A fax had been sent to Aaron Stein, the settlement attorney, asking him to notify all parties at the closing that the deck and other exterior changes had been found to be out of compliance with New Mark's architectural standards.

The meeting was adjourned at 9:05 P.M.

Emanuel and Pauline Gordon
507 New Mark Esplanade
Rockville MD, 20850
August 6, 1991

Mr. David Melnick, President
Board of Directors
New Mark Commons Homes Assn. Inc.
P.O. Box 4206
Rockville MD, 20850

Dear Mr. Melnick:

This letter is in regard to the construction going on at 505 New Mark Esplanade, recently bought by the Parviz Azarmi-Por family. The name of the family was given to us by Rose Krasnow.

We request that you and the Board of Directors of the New Mark Commons Homes Association take immediate action to have removed, a deck which was built on to the front of the house extending out towards the center of the cul-de-sac continuing around to the side of the house about midway of the side wall. This section is between 505 and our house 507. The height of the deck is such that most anyone on the deck can see into every room of our main floor except the bathrooms and the northeast corner room. This includes our bedroom, living room, dining room, kitchen, entranceway and hall. We, of course, have seen people standing on the deck, in various locations from these rooms.

In order to have any privacy we must now shut the kitchen door facing 505's side and shut the hall door facing this same side. There is no way to shut off the view from the deck into our living room, dining room, and entranceway. We are in essence forced to live with our doors shut to have minimum privacy.

As we understand it, the bank which originally took over the house from the previous owner was informed of the covenants which apply to NMC before closing, as were the builders and others that Rose Krasnow contacted. The new owner was contacted within the last few days by Rose and was told he would have to remove the deck. It doesn't sound to us that he will do so. He has made other modifications to the house on which we're not commenting at this time. He has certainly changed the house in more ways than one without approval of the Associations' Architectural Control Committee. In fact we understand from Rose that he did not request approval from the Committee for any modifications.

If this deck is allowed to remain, it will certainly lower the value of our house. That is a real concern. As of now however, we have a very uncomfortable situation and look to the Board to remedy the situation. We look to the Board to take whatever action is necessary to have the deck removed. We understand action has been started and would like to be kept informed on this matter. Please send us copies of the correspondence to date.

Sincerely,



Emanuel and Pauline Gordon
cc: Rose Krasnow ✓

August 20, 1991

Rose Krasnow, Administrator
New Mark Commons Homes Association, Inc.
5 Don Mills Court
Rockville, Maryland 20850

Dear Mrs. Krasnow:

Thank you for the opportunity to discuss the qualifications of my company, Bethesda Aquatics, and the requirements and issues pertaining to the operation of the New Mark Commons Pool. You have a beautifully maintained facility and a history of excellent pool management of which you must be very proud.

At your request, I have worked up a contract price of \$33,800 to operate the pool for the 1992 season. This is an all-inclusive fee and includes preseason preparation, preopening inspection, standard operating hours (same as last year) with a Memorial weekend opening and a Labor Day closing, coaching salaries, and winterization. As discussed I am quite willing to quote prices for additional operating hours or services that the Association deems beneficial.

Since the success of any pool management company depends in large part on hiring quality employees, the sooner you can commit to a company the better job they will be able to do selecting staff.

The following references are provide as requested:

Somerset Pool:	Marilyn Adland Pool Committe Chair	654-5014
	Gayle Knight Team Representative	656-7388
Little Falls Pool:	Pierce Corden President	229-4342
	Nancy McCloskey Team Representative	652-7583
Mohican Pool:	Val Spiegel President	229-2478


If you would like to tour any of these pools, please call me and I would be glad to arrange a visit.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Montrie".

Chuck Montrie, President
Bethesda Aquatics

229-7912 (Home)
699-2520 (Office)



NEW MARK COMMONS
HOMES ASSOCIATION, INC.
P.O. BOX 4206
ROCKVILLE, MARYLAND 20850-0023
(301) 340-0288

TO: THE BOARD
FROM: ROSE
RE: BETHESDA AQUATICS

DATE: SEPTEMBER 3, 1991

Mitch Shein and I met with Mr. Montrie in August, and we were quite impressed. Mr. Montrie is a pool facilities planner with Maryland National Park and Planning (full-time). For several years now, his company has managed three pools (He has managed Mohican since 1972). All of them are within ten minutes of his home. Mr. Montrie hires managers and assistant managers for each, but he personally visits each pool every day to make sure that things are running smoothly. He has been highly recommended to us over the years.

At first Mr. Montrie did not feel he could handle another pool. However, he has just hired another person to help him oversee the management of the pools. He has submitted a proposal which I have attached. The cost is right in the ball park. For 1991, we budgeted salaries of \$30,200. In addition, our share of social security wages were another \$2302.65. Our costs for opening and closing the pool were another \$1350. This totals \$33,852.65. Mr. Montrie also carries \$2 million of insurance, and I assume our workmen's comp rate would drop. Mr. Montrie is agreeable to keeping the pool open after Labor Day (at additional cost, of course), to having special events on the Fourth of July (not on the scale of Tim's), and working with us on a variety of other matters (ex. whether to install a drink machine).

There is one possible kink in all this. Mr. Montrie has employed Danny Rudolph (Judy Rudolph's son) as a pool manager and feels it would work very well to hire him as the manager here. Mitch and I indicated that this might not be to everyone's liking, since Judy is so involved with the swim team. This matter needs to be discussed fully when we meet with Mr. Montrie on Thursday.

NEW MARK COMMONS HOMES ASSOCIATION
BOARD OF DIRECTORS MEETING
THURSDAY, SEPTEMBER 5, 1991

ATTENDEES: Geoffrey Becker, Mercia Decker, Rick Kahn, David Melnick, Mitch Shein, David Wolfe, Rose Krasnow, Chuck Montrie, Parvis Azarmi-Por, Manny & Paulie Gordon, Stan Sirotkin, Claudia Rathbone.

The meeting was called to order at 7:40 P.M. by President David Melnick. Mr. Chuck Montrie of Bethesda Aquatics was present to discuss his proposal for managing the New Mark pool in the coming year. Chuck made it clear that even though safety would always be his first priority, he felt steps could be taken to make the pool a less sterile environment so as to attract more people of all ages. His company was small (only 3 pools under management currently) and tried to offer service as close to self-management as possible. Guards would wear New Mark shirts (not Bethesda Aquatics). Problems would be taken to the on-site pool manager first, and to the the company only if still unresolved. Mr. Montrie felt that it worked best to have a mix of guards - with some from the community and some not. He would be responsible for hiring swim coaches unless we specified otherwise. His company carried two million dollars of liability insurance and would provide workmen's comp. for all employees. Mercia asked Chuck to forward to the Board his standard contract. The Board agreed that it would be best to reach a decision prior to Christmas.

The new owner of 505 NME, Mr. Azarmi-Por, and several of his neighbors were present at the community forum to discuss the modifications Mr. Azarmi-Por had made to his property, most notably the large deck added to the front and side of the home and the bay window that had been installed in the front. The Gordons, of 507 NME, emphasized that no architectural control request had been filed for any of the changes, and that it was incumbent on the Board to enforce the covenants. Moreover, Paulie Gordon pointed out that anyone on the new deck at 505 could see clearly into every room on the main floor of the Gordon's house, thereby destroying their sense of privacy. She invited any or all of the Board members to come take a look. She pointed out that if a flagrant violation like this one was ignored, anything could happen next. Claudia Rathbone, of 501 NME, said that she was an original owner who had moved here in 1967 because she liked the contemporary style of the houses, and she knew that the look would be maintained because there were covenants in place. The Board then heard from Mr. Azarmi-Por. He explained that he had purchased the house at foreclosure, when the house had been "flipped" by the realtor, Sean Shahparast. Mr. Azarmi said Mr. Shahparast had been the agent for the seller. He pointed out that there were no contingency clauses in a foreclosure contract. Once the downpayment had been made, he was committed to purchase the house. He admitted that he was responsible for all the modifications that had occurred. He argued that even without the deck, the Gordon house did not have much privacy, since the view was almost the same from his bedroom

window. The location of most of the homes in New Mark was such that it was not hard to see into nearby homes. Mr. Azarmi-por said he was willing to put some sort of trellis or fencing above the railing of the deck to afford the Gordons additional privacy. He emphasized that in his opinion, the house was really quite ugly when he bought it, and he was simply trying to give a flair to the simplicity to make it more trendy. If he known that the community had covenants, he would not have bought the house. David Melnick explained to everyone present that even though the Board has the authority to have covenant violations removed, this did not mean that the community would go in and cut down the deck or change the window itself. If a compromise could not be reached, the Board probably would seek a court order requiring an owner to correct the violation. However, the Board postponed further discussion of the issue until later in the meeting.

The minutes and agenda were approved as read. Under committee reports, Mercia distributed a first draft of the proposed architectural control guidelines. Board members were asked to direct any comments or suggestions to her. Rose reported that a few people were quite irate about this year's property maintenance letters, even though the majority seemed receptive to the requests. David Melnick urged that we go ahead and have the fence replaced at 274 NME, since our letters had specified that this would be our course of action. The playground committee still had not met, and no answer had been received as yet from Tower-Oaks about the possibility of their providing funding for the playground.

Under architectural control, Rick Kahn said he and David Wolfe had met with the Hales of 1 Bentana. The Hales had insisted that the gravel drive had always been there, and since Architectural Control had no proof to the contrary, it was decided to let this matter drop. The Hales agreed that the fence in the front violated the covenants and would have to come down. Although no specific date was set for its removal, the Hales implied that it would be done in conjunction with installing a fence in the back yard. The Hales understood that an application had to be submitted for the proposed fence in back.

David Melnick felt that even though Mr. Walkington had complied with our request to remove all his wood from our land, it appeared that he was starting a new pile. Rick was to be instructed to remove all wood, timbers, etc. that remained, since we had said we would do this in our letter to Mr. Walkington.

The Wenhold interrogatories had been completed and Steve Silverman was planning to file a motion for Summary Judgment. It would probably take a couple of months at least for the motion to be heard.

The Board was favorably impressed with Chuck Montrie of Bethesda Aquatics. If Mr. Montrie felt that New Mark resident Danny Rudolph would be a capable manager, the Board appeared willing to trust his judgment. Rose and Mitch would try to get references from members

of the Somerset pool where Danny had been assistant manager, and it was hoped that Danny might be able to meet with the Board. Rick Kuckkahn, President of the Swim Team parents, and Jim Bullard had expressed their willingness to help in the selection process. Rose was instructed to get at least two other bids.

Regarding the architectural changes at 505 NME, Rick Kahn moved that the Board send a letter to Mr. Azarmi-Por stating that the new deck and window are not in compliance with the community's architectural control standards and that the Board could not think of a solution other than removal. Providing screening along the side of the deck as suggested by Mr. Azarmi-Por was also deemed unacceptable. Mr. Azarmi-Por was encouraged to suggest other possible compromises at the October Board meeting; otherwise the Board would pursue the removal of the violations. David Wolfe seconded the motion, which passed unanimously.

Under new business, Rick Kahn asked that maintenance of the circles in the single family areas be improved, particularly on Vallingby and Scandia.

The meeting was adjourned at 10:50 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, OCTOBER 3, 1991

ATTENDEES: Geoff Becker, Mercia Decker, Rick Kahn, Rose Krasnow, David Melnick, Mitch Shein, Connie Tonat, David Wolfe, Jean Rawson, James Denny, Parvis Azarmi-Por, Mannie & Pauli Gordon, Stan Sirotkin, Helen Wolfe, Charles Manclark.

The meeting was called to order by President David Melnick at 7:35 P.M. Jim Denny of 514 NME was present to reiterate the need for a street light in the 500 block of the townhouses. He hoped that something could be done before winter.

Jean Rawson of 6 Cumbernauld Court was present to express her own views concerning the changes to the property at 505 NME because she feared that Mr. Azarmi-Por had incorrectly implied that she was strongly in support of his modifications. Jean pointed out that she was not nearly as affected by the changes as the rest of Mr. Azarmi's neighbors. Moreover, the property had been all but abandoned so she was happy to see someone caring for it. She understood that privacy issues were involved, but she and her husband both hoped that an expensive lawsuit would not develop.

Before approving the minutes, two changes were made. With respect to the fence at 1 Bentana, Rick Kahn pointed out that the Architectural Control Committee met only with Mr. Hale, not with his wife. With respect to our discussions with Chuck Montrie of Bethesda Aquatics, Mitch Shein felt that the minutes incorrectly indicated that the Board was willing to use NMC resident Danny Rudolph as pool manager if Mr. Montrie thought he was capable. The Board had not, in fact, made any decision regarding this issue.

Under correspondence, the city had written to say that the trees on Scandia were losing leaves early due to a fungus, but they were otherwise healthy. Therefore the City would apply a new fungicide but would not remove the trees. Notice of the first meeting of the Rockville Common Owned Communities Association (RCOCA) had been received. David agreed to go to the meeting as the Board's rep. The first public hearing on the revised Master Plan was to be held on October 23rd. David M. offered to distribute the summary provisions of the plan to the Board so that the Board could determine whether there was a need to testify at the hearing. Rose reported that the community had received a water bill for the preceding five, unbilled years. The amount was extraordinarily high so the City had agreed to a one-time adjustment and had further offered to monitor the meter to insure that there was no underground leak. The City had also written to request that New Mark's land at the entrance to New Mark be cleared of debris. Rick had already addressed this problem.

Other correspondence included notification of a variance hearing to be held on November 2nd concerning the Watkins' application to build a carport at 21 Watchwater Court. Since the architectural

control committee had rejected the proposal and a letter had been received from the Hargers of 23 Watchwater voicing opposition to the proposal, it was agreed that the community should testify against the variance. The Board also received an invitation to the County Executive's Arts Ball and an unfriendly letter from Robert Walkington of 326 NME on the subject of his woodpile which had been removed at the Board's request from the common grounds.

Under committee reports, Rick Kahn reported that the committee had met and each member had an assigned task. One question was whether the Board would be considering locating the playground in the area where the volleyball court now stood. Charles Manclark said that during playground discussions held years ago, it was always assumed that the facility would be placed on the other side of the pool so it was neither near nor visible to the street. No one was certain just where this site might be. The Board seemed amenable to the possibility of using the volleyball court area.

Mitch reported that the Pool Committee had met with Rick Curl of Curl Swim Services and had been very impressed. It was agreed that Mr. Curl should be asked to attend the next Board meeting, as should any prospective manager that seemed to meet our basic qualifications.

Under old business, Mr. Azarmi-Por said that he had received our letter stating that the deck and bay window were unacceptable. In looking for compromises, he said that he had spoken with his neighbors. He offered to make several additional improvements to the property including landscaping, returning the color of the house back to the original color, building a screen on the deck that would be covered with evergreen plants for the sake of privacy, removing the small window on what used to be the garage door and perhaps even converting the room back into a garage. In return, he hoped the community would approve the window and deck. The neighbors in attendance felt that the additional improvements did nothing to address the architectural inconsistencies of the deck and window. Connie reminded Mr. Azarmi-Por that trees could not be cut down without permission, while David Wolfe pointed out that none of the other changes suggested by Mr. Azarmi-Por had been submitted to the Architectural Control Committee. Stan Sirotkin warned the committee that approval of these additional improvements might seem to give tacit approval to the changes already made if Mr. Azarmi-Por viewed them on a quid pro quo basis. Mercia moved that we give Mr. Azarmi-Por until November 7th to put his proposal in writing, but the motion received no second because others felt this was unnecessary step since the improvements were not an acceptable compromise. Mitch moved that two members of the Board, including one member of the Architectural Control Committee, meet with Mr. Azarmi-Por over the next month to see if a better compromise could be found. There was no second. Rick moved that we offer Mr. Azarmi-Por the opportunity to submit the matter for binding arbitration. After Stan Sirotkin pointed out that a decision reached under binding arbitration could not be appealed, the motion was withdrawn. David M. moved that we reaffirm the

Board's decision of September 5th which found the deck and window to be out of compliance. David W. seconded the motion, which passed unanimously. The Board agreed to turn the matter over to our attorney for his recommendation as to the next appropriate step.

Rick Kahn said that the ACC had received another application from Azarmi-Por for the installation of two skylights. It had been rejected as incomplete because it did not contain any of the neighbor's signatures.

The Board had received a letter from Melvin and Ursula Rein of 11 Tapiola Court concerning the shed built by their neighbors to the back, Rick & Pat Kahn. The Rein's were upset that a member of the Architectural Control Committee had not sought the approval of the neighbors and had built something "in the nature of a lean-to utilizing materials different from the rest of the house." Rick explained to the Board that he had discussed the shed with his neighbors and that he fully understood that he had proceeded at his own risk. He said that the shed would be stained the same color as his house. Connie moved that in order to avoid any apparent conflicts of interest, an alternate should be appointed to the ACC who would serve whenever a member had submitted an application. The motion was seconded and passed unanimously.

The Board then discussed the draft of the ACC guidelines put together by Mercia Decker. Several people felt that the guidelines were too specific. Others felt that additional guidelines concerning enforcement were necessary since the Board currently acted only when complaints about a change were received. The result seemed to be that those who filed were penalized more frequently than those who did not. The Board agreed to seek legal advice concerning what type of enforcement and sanctions were practiced in other communities and might be usable in New Mark. In general, the Board felt the guidelines should flesh out the community's architectural control policy, the process, the procedures, and enforcement. The Board agreed to hold a special session on October 17th to go over the guidelines again and to make more specific suggestions.

The meeting was adjourned at 10:30 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, OCTOBER 17, 1991

ATTENDEES: Geoff Becker, Rick Kahn, Rose Krasnow, David Melnick, David Wolfe, Mitch Shein, Darlene Watkins, Rick Curl.

The meeting was called to order at 7:40 P.M. by Board President David Melnick. Mr. Rick Curl of Curl Swim Services was present to discuss his pool management proposal. For several years he had managed only two pools, a country club in Virginia and a small homeowners association in Bethesda. Now he wanted to expand to a total of four. He stressed that any manager faced a challenge in trying to fill Tim's shoes. He offered to spend time with Tim to get a feel for what the community had become accustomed to. He pointed out that he had good access to pool staff members because he coached swimmers year round. His hope would be to appoint a mature manager who could stay here for several years. He also pointed out that our swimmers would be offered a free 8 week stroke clinic in the Spring if Curl were selected to manage the pool. Potential pool manager candidates would be presented to the Board for their review. Although Mr. Curl felt it would be easiest to bring in all new staff, he was willing to consider NMC guards that we recommended.

Darlene Watkins of 21 Watchwater Way was present at the community forum to discuss her architectural control application to build a 400 square foot deck, which would also serve as a carport for two cars. The application had been rejected by the ACC. Ms. Watkins felt that given the setback of the house, no one should be bothered by the proposed addition. Rick Kahn pointed out that complaints had been received from two neighbors. He said that the issue was not one of materials or its consistency with the current decking in front of the house. Rather, the committee felt that a large, expansive deck and carport to the front of the house was not a New Mark feature. The fact that the structure was close enough to the side property line to require a variance also indicated that the privacy of the neighbors was involved. The only alternative that the committee could suggest, given the small lot size, was to convert the room in the house back into a garage. David Melnick informed Ms. Watkins that the community would testify against the requested variance at the hearing on November 2nd.

Under new business, Rose said that a certified, insured instructor had been found who was willing to offer aerobics in the New Mark Clubhouse two evenings a week. In addition, a New Mark resident wanted to start a Junior Girl Scout troop for girls in the 4th - 6th grade, with meetings to be held in the Clubhouse. Since the clubhouse was under utilized and both proposals would benefit residents, David W. moved that we allow both the aerobics instructor and the Girl Scouts to rent the clubhouse at the going rate of \$10.00/hr. Rick K. seconded the motion which passed unanimously.

The Board agreed that of the four bids received for pool management services, only two (Bethesda Aquatics and Curl Swim Services) satisfied our criteria. Both bids were similar in price, and there were pros and cons to both. Members were instructed to review the contracts closely so that a final decision could be made at the Board meeting on November 7th.

The Board felt that our efforts to control erosion in the community should continue. Specifically, the Board wanted to address the area beginning at Monroe Street and going behind the dam and in the back behind the townhouses from 246 NME up to 294 NME. (Areas 1 & 2 in the Country Club proposal). In addition, since flooding problems had occurred in the area behind 300 - 314 NME, the Board felt this problem should be attended to as well. If possible, the Board wanted the work to be done in the current year.

The meeting was adjourned at 9:45 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, NOVEMBER 7, 1991

ATTENDEES: Ursula & Melvin Rein, Mannie & Pauli Gordon, Stan Sirotkin, Jim Bullard, Rick Kuckkahn, Pat Reber, Geoff Becker, Mercia Decker, David Melnick, Mitch Shein, Connie Tonat, David Wolfe, Rose Krasnow.

The meeting was called to order at 7:40 P.M. by President David Melnick. Mr. & Mrs. Rein of 11 Tapiola Court were present at the community forum to protest the shed that had been constructed by the Kahn's at 13 Vallingby Court. The Reins pointed out that neither the siding nor the color of the structure conformed to the rest of the house. Moreover, no building permit had been obtained, and architectural control approval was sought "after the fact" and without all the neighbors' signatures. Although the Reins had made these points in a letter to the Board dated September 20, 1991, they had received no response. David Wolfe pointed out that while the Kahn's had built the shed prior to obtaining approval of the ACC, they were aware that they did so at their own risk. Moreover, he said that the committee found the structure to be reasonably consistent with the rest of the community with the exception of color, which the Kahn's had agreed to bring into conformity. David Melnick pointed out that approval for a project can be granted over the objections of neighbors and that signatures on the ACC form only indicate knowledge of a project, not approval. The Reins reiterated their point that the very body enforcing the laws in the community was not following the laws and that the structure was not well built or in harmony with the neighborhood. Everyone agreed that the Kahn's actions were procedurally wrong. Geoff pointed out that the city had fined the Kahn's heavily for failure to get a permit. The Board apologized for not responding to the Rein's letter. David Melnick said that the ACC was being reformulated with a new member and an alternate, and they would revisit the issue.

The Gordons were present to let the Board know that unapproved alterations, such as a new front door with stained glass, were still occurring at 505 NME. Stan Sirotkin wondered what would happen if the property were sold. Since Mr. Azarmi-Por still had not moved in, it was possible that this was a development property. David M. said that since Mr. Azarmi-Por had withdrawn any offers of a compromise, the Board would vote to take appropriate action later in the meeting.

The minutes and agenda were approved. Under correspondence, the Board suggested that all incoming correspondence be acknowledged by a postcard stating that it had been received, similar to the procedure followed with Architectural Control. David Melnick had received the first bill for our RCOCA dues. He also had a letter from the Board of Appeals stating the reasons for their rejection of the Watkins request for a variance to build a carport/deck in

front of their home. The Appeals Board felt the project was contrary to the public interest (based on New Mark's objections) and felt there was no compelling reason to grant the variance, since the deck could be built without one if the size was decreased slightly. While testifying at the Appeals hearing, David once again asked that the city make ACC approval mandatory before issuing a building permit.

After some discussion of the differences between Curl Swim Services and Bethesda Aquatics, Mitch moved that we hire Bethesda Aquatics with the understanding that the Board reserves the right to approve all pool personnel. David Wolfe seconded the motion, which passed unanimously. Jim Bullard mentioned that Skylar Browning had written to express his interest in working for New Mark as a guard and Assistant Coach.

Under Architectural Control, David M. suggested that we consider hiring, on an hourly basis, an Architect who could use his professional knowledge to assist the Architectural Control Committee. Since everyone seemed to think this was a good idea, David W. agreed to talk to a friend who might be able to help us. It was agreed that a letter should be sent to the Hales of 1 Bentana giving them two weeks to notify the Board of their plans concerning removal of the fence in their front yard. In the Wenhold case, a summary judgement motion had been filed. Mr. Wenhold now had 30 days to reply. With respect to 505 NME, David M. moved that we refer the matter to our attorney with the recommendation that we commence litigation as soon as possible. David Wolfe seconded the motion which passed unanimously.

The Board reviewed Country Club Landscaping's revised bid for the erosion control work in Area 1. The cost of fill and the cost of a large concrete pipe had been added to the original proposal. Before breaking into the spillway, Rose suggested that we contact our engineer. There was a consensus on the part of the Board that the project was approved subject to the Engineer's opinion.

Before proceeding with the installation of additional lighting in New Mark, the Board decided that the community should be notified by an article in the newsletter which would list the sites chosen to receive additional lighting. Feedback from residents would also be solicited.

Mercia pointed out that the fence was still down in back of 13 Bentana Way. David agreed that he would contact the city on matters such as these if Rose would give him a memo as a reminder.

Connie distributed more information on the Architectural Control guidelines and asked that each board member submit comments on the draft to her by the end of the month. The Board felt that an interim meeting in January to deal specifically with Architectural Control would be advisable.

In view of the new problems that had come up concerning the accuracy of New Mark's plats delineating townhouse property from the common grounds, Rose was instructed to look into the possibility of hiring a surveyor who could research the land records and actually survey the property so that this matter could finally be resolved.

After setting dates for the budget subcommittees to meet, the meeting was adjourned at 10:30 P.M.

**NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, DECEMBER 5, 1991**

ATTENDEES: Geoff Becker, Mercia Decker, Rick Kahn, Rose Krasnow, David Melnick, Mitch Shein, Connie Tonat, David Wolfe, Russ & Elysse Brown, Joan Gray, Bob Schreiber, and Paul Wenhold.

The meeting was called to order at 7:35 P.M. by President David Melnick. Several people were present at the community forum to protest the basketball pole and hoop that had been installed by Carl and Cindy June of 7 Harlow Court during Thanksgiving week. The neighbors had alerted Rose when construction began, so Rose had called the Junes to warn them that they were proceeding at their own risk. The June's complied with Rose's request to submit an ACC application, but the application had to be rejected because it did not contain any of the neighbors' signatures. The Browns emphasized that the Junes had not followed the community's ACC procedures, nor had they in the past when they made alterations that included breaking through a brick wall to add a window and changing the color of both their front door and roof. The Browns distributed a handout detailing their concerns about the basketball hoop. They were fearful that the ball would roll into the street, and since the house was located on a busy corner, the children would be in danger. They said the ball frequently landed in the Brown's front yard, damaging their grass, trees and bushes. The Browns felt that the backyard would be a much more reasonable location for a basketball hoop. A general discussion followed concerning the growing noncompliance problem within New Mark, the many positive steps the Board was taking to try to deal with the problem (including legal action and strengthening the ACC guidelines), and how to get residents more involved with this issue. The Board assured the Harlow Court residents that the ACC would look at the basketball hoop and, if it was found to be out of compliance, would take whatever steps were necessary to have it removed.

Paul Wenhold was present at the forum to ask several questions on the budget. In particular, he was distressed that \$10,000 had to be allocated for legal fees. David Melnick pointed out that there were many ways to resolve disputes without resorting to lawyers, but to date the parties involved had not been willing to use methods such as binding arbitration.

After correcting one typographical error, the minutes and agenda were approved as written. The Board then discussed the issues raised by the shed built by fellow Board member and ACC Chairperson Rick Kahn. At the outset, Rick handed in his letter of resignation from both positions and it was accepted. Rick felt he had acted as many others in the community had - when a contractor offered him a price break if the work could be done immediately, he decided to go ahead even though no application had been filed. He said it had always been his intention to do whatever was necessary to bring the shed into compliance. It was pointed out, however, that even when an application was submitted, it did not contain the signatures of two affected neighbors. Moreover, the application specified that the shed would match the rest of the house in terms of color and siding, but it did not. Mercia said that Rick's dispute with his neighbor was not the Board's concern, but that members of the Board and the ACC had to adhere to a higher level of conduct than other members of the community. David Wolfe felt that Rick had displayed poor judgment and that the letter Rick had sent to the Reins only compounded the problem. David Melnick stressed that in light of all the enforcement problems the Board had faced in the last two

years, Rick could not have thought that his actions would simply slip by unnoticed. The Board did agree to render a timely decision concerning the steps Rick needed to take to bring his shed into compliance.

Under committee reports, Rose stated that she had met with Chuck Montrie of Bethesda Aquatics to firm up the pool contract for the coming year. The Board agreed to change the hours of operation (Monday - Thursday 11 - 9; Friday 11 - 10; Saturday 10 - 6; and Sunday 10 - 9) since it appeared that the revised hours would better serve the majority of pool users and did not involve any increase in cost since the total number of hours per week would remain the same. Before deciding whether to stay open past Labor Day, the Board wanted to know how much it would cost.

Under correspondence, Rose reported that letters had gone out to Dee Farrell and the Hales requesting them to notify the Board in writing by December 20th as to when they would undertake the necessary modifications to their homes. Mercia Decker agreed to receive future copies of the City Council Agenda. Russ Brown agreed to review the West End Traffic Advisory report and notify the Board if he felt the community should object to any part of it. Herb Brubaker had again written to protest trash that was being left in front of 154 NME. For want of a better solution, the Board suggested that Rick should regularly check that area and remove accumulated trash.

With respect to the 1992 budget, the following was agreed to:

- 1) David Wolfe moved that \$20,000 be transferred from our surplus money market fund to our designated reserve fund. The motion was duly seconded and passed unanimously.
- 2) Mitch Shein moved that we increase our dues by the CPI of 3.4%. The motion, seconded by Connie Tonat, passed unanimously.
- 3) Since the operating budget reflected expenditures greater than income because the Board planned to use funds from our surplus money market account, Mercia moved that we formally transfer \$11,500 from our surplus to our 1992 operating budget. Mitch seconded the motion which passed unanimously.
- 4) The Board agreed to purchase all of the equipment proposed by Rick, including a shredder, front end loader, and new tractor. The Board did not opt to increase Rick's sick leave or vacation time although a change was made to allow Rick to carry over 3 weeks of vacation time instead of only two.
- 5) David Melnick moved, and Geoff Becker seconded, that the budget as attached be approved. The motion passed unanimously.

The following decisions were made with respect to Architectural Control:

- 1) Mitch Shein moved that the Board commence litigation against Mr. Azarmi-Por of 505 NME to require him to remove the exterior modifications to his home. Geoff Becker seconded the motion which passed unanimously.
- 2) The Board unanimously concurred that once the ACC committee was reconstituted, it would review the situation regarding the basketball hoop at 7 Harlow.

With respect to the proposed erosion control work, the Board agreed that we should get a building permit from the City before proceeding to remove and replace the existing tie wall by 246-250 NME. Since our Engineer suggested that we notify the City before undertaking the rest of the work in Area 1, Geoff Becker agreed to serve as the Board's representative in discussions with city staff. It was hoped that the City might also be able to provide some technical assistance to the community.

The Board was unwilling to formulate a position concerning the removal of the sycamore trees along Vallingby, Tapiola and Scandia until they able to learn how the majority of the residents in that area felt about the matter. Since the City had placed the matter on the December 12th agenda of the Recreation and Parks Advisory Board, the New Mark Board decided to ask that the matter be deferred until a later date. This would make it possible to set up a meeting with the City Forester in January.

It was agreed that the vacancy on the Board should be advertised in the December newsletter. David and Mercia agreed to serve as ad hoc members of the ACC until such time as that committee could be reconstituted. It was agreed to hold a work session on Architectural Control on Thursday, January 23rd.

The meeting was adjourned at 11:00 P.M.