

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
JANUARY 9, 1992

ATTENDEES: Russ & Elysse Brown, Stan Sirotkin, Mark Wetterhahn, Mercia Decker, David Melnick, David Wolfe, Mitch Shein, Geoff Becker, Rose Krasnow.

The meeting was called to order by President David Melnick at 7:35 P.M. No one was present for the Community Forum. The minutes and agenda were approved as read. Under correspondence, attorney Steve Silverman had notified the Board that the Wenhold motion for summary judgment would be heard on Tuesday, February 25th. Mitch Shein agreed to take the necessary roof pictures. The Board also received a note of thanks from the Reins for the Board's actions in the Rick Kahn matter. Linda Silversmith had written expressing several reservations about the erosion work done in the area behind her house. It appeared to her that water was being directed uphill. Moreover, she wondered if a clog in the main pipe could cause water to back up into each of the connected homes. Rose had sent a reply. Rose alerted the Board to the fact that New Mark had received 34 property tax assessments. All except one were for only \$10.00. Although no one understood why we had gotten so many, the matter did not seem to be worth pursuing. The Rockville Consortium for Science notified the community that Science Day would be April 26th. In response to a complaint from Linda Silversmith concerning the City's decision not to pick up leaves in the townhouse areas, Bruce Romer replied that the townhouse streets were not up to City standards so the trucks could not move around well enough to get the leaves. Rose pointed out that the garbage trucks had no problem in this regard, so she suggested that this was a matter RCOCA might pursue.

Under committee reports, Mitch said that the pool contract had been finalized. Rose reported that there was a leak in the pool and that she, along with Chuck Montrie of Bethesda Aquatics, and Pool Service Co. were trying to figure out the best way to solve the problem given the winter weather.

Several architectural control matters were then addressed. The Board agreed that the ACC should revisit the June's basketball hoop. David M. agreed to write to the Junes to invite them to the February Board meeting. It was hoped that this dispute, if not solved within the community itself, could be solved by RCOCA, not the courts. Since the Hales of 1 Bentana Court had not responded to Steve Silverman's letter regarding the fence, David M. agreed to call them concerning their intentions in the matter.

Mark Wetterhahn briefed the Board on the status of things with Tower-Oaks. He said that little had changed in the agreement except for Section 35, which stated that if the Federal government's definition of wetlands should be changed, Tower-Oaks would have the right to change the location of its planned wetlands, except in the case of Area 1 (The area bordering Farsta, Tapiola, and Vallingby).

Mark said that Tower-Oaks had agreed to donate \$8000.00 to a New Mark playground, and he hoped the agreement would be ready for signatures in the near future. The Board agreed that David could go ahead and sign on the community's behalf, when the final document was ready. Mark also informed the Board that construction of Tower-Oaks Blvd. North had been started and would probably be finished by June. It appeared the fill was being brought in from elsewhere, not from the wetland construction as originally planned.

The Board discussed Rose's memo concerning the clubhouse phone situation. Everyone agreed that a new line should be connected to service the alarm, but a regular phone for the pool upstairs and down seemed to be too expensive and subject to abuse. There was some discussion about putting a pay phone on the landing between floors and a regular phone downstairs for use only by pool personnel. Rose agreed to look into the matter further.

The Annual Meeting was set for March 19, the third Thursday in March. David M. pointed out that the Covenants state that 25% of all homeowners are supposed to be present for this meeting. Mercia agreed to head up an outreach effort to try to get more people to attend. In addition to the one vacancy that already existed on the Board, David M.'s term would expire. Connie and Geoff were filling terms that also expired in March.

The Architectural Control meeting scheduled for January 23rd was postponed. Rose agreed to talk to Connie about setting up a new date.

The meeting was adjourned at 9:30 P.M.

**NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, FEBRUARY 6, 1992**

ATTENDEES: Geoff Becker, Mercia Decker, David Melnick, Mitch Shein, Connie Tonat, David Wolfe, Rose Krasnow, Russ and E'lyse Brown, Carl June, Beth Fisher.

The meeting was called to order at 7:35 P.M. by President David Melnick. No one was present for the community forum. The Board had received the following correspondence:

- 1) A letter from the Montgomery County Detention Center regarding a phone networking system that was being instituted to let communities know when someone escaped from the facility.
- 2) A letter from the City regarding a plan to build 3 houses on a lot at the corner of Argyle and Monroe.
- 3) A letter from Dr. Straus of 4 Farsta Court in which he stated that the community was wasting too much money enforcing arbitrary architectural control standards while ignoring obvious needs, such as the unsightly appearance of the clubhouse parking lot.

In addition, Rose shared with the Board a letter she had sent to those people who had attended a meeting held at the Clubhouse on January 29th to discuss New Mark's most recent tax assessments. There seemed to be a consensus that the assessments were not too far out of line, based on recent selling prices of homes in the community.

Under committee reports, Rose reported that Steve Silverman had sent the Board a suggested addendum to the pool contract we had signed with Chuck Montrie of Bethesda Aquatics. After reviewing the addendum, David Melnick felt that most of it was unnecessary but he agreed that the clause dealing with liability insurance and workman's compensation needed to be fleshed out. Rose agreed to speak with Chuck at the meeting on Sunday, February 9th, when the new swim coaches were scheduled to meet with reps of the swim team.

Rose reported that dues were actually coming in more promptly this year than in past years, despite the recession.

With respect to the effort to produce new Architectural Control Guidelines, everyone agreed to complete the portion assigned to them by February 13th. The output (on disk) would be given to David Wolfe who would then edit the entire package so that a hard copy would be ready for a special meeting to be held the following week.

The Board then turned its attention to the matter of the basketball hoop which had been installed at 7 Harlow Court. Owner Carl June had requested an opportunity to present his side of the issue. Carl said that he knew his neighbors objected to the hoop, but his neighbors standards did not constitute a "neighborhood standard". He admitted that the hoop had been rejected initially when he had submitted an application in August of '90, but he said that when the Kuckkahn's had received approval to install a hoop only about 100 yards away (23 Welwyn Way), he had assumed that there could be no objection to his installing an identical hoop. He said that the Architectural Control Committee had no authority to rule on any safety issues that might be involved, and he said that 11 other hoops could be found in the community. He passed around a group of pictures showing the other hoops, as well as pictures of his own taken from the Brown's and Schreiber's property. David Melnick reminded him that the ACC could rule on a structure's harmony with the surroundings and that in this regard, the June's hoop was

not identical to the Kuckkahn's. Unlike the Kuckkahn's, which was tucked away to the side of their house, the June's was very visually prominent. Moreover, missed shots would naturally land in the Brown's yard, creating a nuisance. David W. said that the objections of neighbors can influence an ACC decision when the objections seem valid. Beth Fisher asked Mr. June if he would be willing to compromise by attaching the backboard to his garage, but Carl said that he felt he was being treated unfairly because other homeowners had hoops adjacent to their property lines. Geoff Becker pointed out that it was the Board that was being treated unfairly, since the Junes had not filed an architectural control application so that the matter could be resolved prior to any expenditure being made. There was some discussion as to how the kids could play ball successfully on the muddy grass that lay between the driveway and the hoop. Mr. June implied that he hoped to install some other surface in the near future. Seeing no hope of compromise, David Melnick said that it was the Board's hope that this matter could be resolved by the dispute resolution process offered by RCOCA, not through the courts.

Under other architectural control matters, Rose said that Mr. Azarmi-Por apparently was avoiding service. Once served, he would have 30 days to respond. David Melnick said he still hoped to talk to Jeff Hale of 1 Bentana Court concerning the fence in his front yard. If no results could be guaranteed, David recommended that we strongly considered the self help remedy of taking it down ourselves. David also asked new ACC member Beth Fisher to take a look at Rick Kahn's shed and determine what she felt was needed to bring it into compliance.

After Mr. June left, the Board again discussed its position with respect to the basketball hoop. While Mitch stated that he did not find the hoop objectionable and David Melnick thought we didn't have a very strong case, several others disagreed. Mercia felt the hoop was ugly and not in harmony. Geoff felt that in light of all the Architectural Control problems the community was experiencing, this was a time to support our Architectural Control Committee, particularly since the Junes did not act in good faith by filing an application. Further discussion revealed a consensus that the Board should uphold the ACC and recommend to the Junes that the matter be turned over to RCOCA.

Rose reported that the wetland agreement with Tower Oaks still was not ready for signing because Mark Wetterhahn had backed away for the time being because he felt that the Tower Companies were not being open with us on several points.

Steve Krasnow had resigned as Chair of New Mark's 25th birthday celebration due to time constraints. Cora Alter agreed to serve in his stead, but only if the Board was willing to do it her way. Cora wanted to have a fairly fancy, adults only, evening party at the Clubhouse. The Board agreed to this in the hopes that a family oriented event could also be planned, albeit by someone other than Cora. It was suggested that the event be held in September so that there would be more time to prepare for it.

Geoff Becker had met with a representative from the City to discuss our plans to deal with the erosion behind the dam and down to Monroe Street. The City made several suggestions, and Rose reported that our engineer, Neil FitzSimons, was also looking more closely at the project. Since there was not an urgent hurry to get this work completed, the Board agreed to give Neil a chance to meet with the City so that the best solution could be found.

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

TO: THE BOARD
FROM: ROSE KRASNOW
RE: AGENDA DISCUSSION

DATE: MAY 4, 1992

The agenda for the May meeting has become rather unwieldy. In an attempt to facilitate matters a little bit, I would like to discuss some of the items on the agenda in this memo.

"Fishing"

There turn out to be several sides to the fishing issue. Rick says some fishing is desirable because it keeps the number of fish down. I find it hard to believe that enough fishing is done to make a difference. I checked with the insurance agent again to get their opinion. They understood that it was difficult to enforce the "No fishing" rule, but they urged that we keep the signs posted because this in effect conveyed the idea that you "fish at your own risk"...that the Association was not responsible. In the meantime, Herb Brubaker has gotten involved. Herb lives at 184 NME, on the lake. He is obsessed, as you may recall from prior meetings, with the issue of garbage in New Mark, and now he has taken on the issue of garbage in the lake. He becomes belligerent with people and has terribly upset several residents because he has yelled at them, called them "criminals" and so forth. A copy of Herb's most recent correspondence is attached.

Storm Drain - 200 Block

For new Board members not familiar with this problem, let me review. A large concrete storm drain pipe lies underneath the concrete and steps between 236 and 238 New Mark Esplanade. The pipe drains the entire parking lot for the lower 200 block (200 - 274 NME). The Association is responsible for the pipe, which flows into Lake New Mark. Two years ago, the pipe became clogged, causing the parking lot to flood severely. We sought bids and obtained three - one with prices between \$1,900 and \$16,000 (depending on scope of repairs needed once excavation was done), one with prices ranging from \$5,000 up to \$38,000, and one for \$33,400. We chose to use the first one, because the contractor seemed willing to work with us step by step. Unfortunately, when the bottom part of the pipe was excavated, we learned that it was imbedded in a concrete cradle many feet in diameter. The contractor did not want to disturb the cradle for fear that the entire lake bank might be jeopardized. Therefore, he cleaned out the exposed part of the pipe, made some repairs to a small break that was uncovered, and covered everything back up. Water flowed freely through the pipe, and we thought the problem was solved, but to be on the safe side, we decided to have the drain cleaned professionally every spring (Cost for cleaning: \$4500) That worked well last year, but this year the drain company (same workman each year) could not clear the pipe. Moreover, soil is washing away

severely from underneath the steps, so clearly something is amiss, although the parking lot has not yet flooded. With the help of the City of Rockville, I have once again obtained three bids for the work in this area. (See attached) I am expecting one more. Please note that the most expensive bid (Busy Ditch) still compares very favorably with the bids we received two years ago when we tried to resolve this problem. I think Busy Ditch's proposal sounds like the ideal solution. It is more extensive than the other two, but I want to solve this problem once and for all. The City knows all three contractors, and thinks all of them should do a high quality job. They have suggested that I meet with Wells and tell them what else I would like them to do in addition to putting in a manhole. They felt the scope of the work could be expanded, and the price still would probably be lower than Busy Ditch. I am currently pursuing this option and may know more by Thursday.

Azarmi-Por:

At the recommendation of the Board, Geoff, Mitch and I met with Steve Silverman the day after our April meeting to discuss our concerns about his seemingly conflicting advice on the many ACC matters that currently confront us. The meeting was quite lengthy, but we were not convinced that we had improved the lines of communication. Therefore, I proceeded to speak to two other lawyers. At David Melnick's recommendation, I spoke to Jonathon Bromberg. Mr. Bromberg has served as the lawyer for the Maryland Condominium and Homeowner Association, a group we do not belong to. I thoroughly enjoyed speaking with him, and he thought we had an extremely strong case vis a vis Azarmi-Por until I told him that our Covenants only contained a general statement concerning the "harmony of external design". He felt we should compromise only as it regards the deck i.e. we could ask Azarmi to reduce the size of the deck by half, removing the part that wraps around the side. If Azarmi was not willing to do this, Mr. Bromberg said he would be happy to take the case to court for us, although he said he has not ever litigated an ACC case. I then spoke to Jeff Van Grack, an attorney with Kass, Skelet, etc. Jeff has done on the legal work on RCOCA (as a volunteer) and is the attorney for the Americana Center, among others. Jeff felt that we could legally go after the deck on architectural grounds, not just on the privacy issue. He said that he could review the documents in the case, come out and make a sight visit, and render a second opinion for under \$500. (About 3 hours of his time, based on his fee of \$160 an hour). Since he was going to be out of town until the date of our meeting, our told him I would present this option to the Board and get back to him. By the way, he and Steve Silverman know each other well and have rendered second opinions for each other on many other occasions. While this concerned me at first, there really are not too many attorneys around who specialize in homeowner law.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, MAY 7, 1992

ATTENDEES: Geoff Becker, Russ Brown, Mercia Decker, Susan Klise, Neil Stein, David Wolfe, Rose Krasnow, Helen Reed, Mark Wetterhahn, Chuck Montrie, Rick Winecoff, David Melnick.

The meeting was called to order at 7:30 by President Geoff Becker. Helen Reed was present at the community forum to discuss her letter detailing plans for improving the front entrance island. She felt the diseased, overgrown junipers should be removed and that daffodils and impatiens should be planted to add color. Geoff told Helen that the Board hoped to work on the island in the fall, but was awaiting recommendations from the landscape committee.

Rick Winecoff was concerned that the "No Fishing" policy recently adopted by the Board could have a detrimental effect on the lake. If some bass are not caught, they will multiply and consume all the plant eating fish. Grasses will grow in the lake, as occurred in '79-80. This looks bad, smells bad, and would require the use of extremely potent chemicals to get rid of it. The ensuing discussion raised the following points: Fishing was undesirable because of the liability issue and the amount of garbage left behind. On the other hand, complete enforcement of the no fishing policy would be difficult at best, and it seemed a pity to bother the police everytime someone threw a line in the lake. Neil wondered if we could limit fishing to residents only. Rick said that he never allows kids to fish during school hours and he also prohibits groups of more than 3. He told the Board that 1 person had actually been given a written letter of permission to fish, because he helped police the lake and he let Rick know the type of fish that he was catching. Mercia said the fishing issue only highlighted the fact that a set of policies regarding the lake as a whole were needed. The Board agreed to set up a lake committee that might even explore the idea of turning ownership over to the City. In the meantime, everyone agreed that the current fishing ban should be enforced, and that Rick should replace the "No Fishing" sign along the Esplanade.

Chuck Montrie, of Bethesda Aquatics, was present to meet the new Board members. He stressed again that he hoped to increase utilization of the pool, and he hoped that the Board would reconsider the ice cream and ping pong table issues at some time in the future. He invited the Board to a picnic at noon on May 17 to meet this year's pool staff. Rose showed the Board a guest pool pass from one of Chuck's other pools and asked if New Mark could print up a similar one. Chuck pointed out that by having the passes, the guards do not need to handle cash at the pool. Neil Stein felt that all guests should be allowed into the pool at no charge. David Wolfe moved that we sell the passes in amounts up to \$10.00, to be paid for by check. Susan seconded the motion, which passed by a vote of 5 - 1 (Neil dissenting). Chuck Montrie also notified the Board that it would be necessary to install low

voltage lighting in the pool in '93. Our lights were in working order, but current code on pool lights is much more stringent than what was required when our lights were installed. New lighting would make the pool more safe.

Mark Wetterhahn briefed the Board on the final draft of the agreement with Tower-Oaks concerning the construction of the wetlands near New Mark. Russ moved that we sign the agreement. David seconded the motion, which passed unanimously. The Board felt that a newsletter article emphasizing all the work done by Mark and by Marty Reiss would be appropriate.

David Melnick reported that negotiations with Jeff Hale of 1 Bentana Court had broken down completely. Apparently Mr. Hale felt that a quid pro quo agreement had been struck: he would take down the front "Chinese Chippendale" fence because the ACC committee had agreed to let him install a privacy fence in the back yard along the bicycle path. When he realized that approval of the privacy fence was not assured, he lost all interest in taking down the fence in front even though the Board said he could replace it with one made of horizontal split rail. Indeed, when David had tried to discuss the issue with him in early April, Jeff Hale ordered him off his property before he called the police. The Board agreed to discuss the options available at this point when ACC matters were discussed under old business.

The minutes and agenda were approved as read. Under committee reports, Rose discussed the problems with the storm drain pipe between 236 and 238 NME. With help from the City, 3 bids had been obtained. It was hard to compare the 3 bids because the scope of the work varied widely. The bid from Busy Ditch, while the most expensive, seemed to provide the greatest assurance of success and the cost was still much lower than the bids received two years ago. Since the City, not Rose, had met with Wells, Geoff suggested that we have them out again to see if we could get another bid based on more complete job description. Russ suggested that we try to negotiate a lower price from Busy Ditch. Rose agreed to poll the Board once more information was obtained so that the project could get underway as soon as possible.

Continuation of the erosion project was awaiting further input from our engineer, Neil FitzSimon. It appeared that he would propose that two check dams 4 - 5 feet high be built in the area running behind the dam.

As in the past, the question of property lines arose concerning whether Rick was cutting some grass that was not part of the common grounds. The Board wanted Rick to continue cutting the patch at the corner of Basildon, Welwyn, and NME even if it belonged to the owner of 1 Basildon. Rose was also urged to get moving on obtaining a survey of the entire community to establish property lines once and for all. Board members also agreed that the Association was responsible for ensuring that homeowners kept their grass cut, kept junk cars off their property, and so forth.

Rose reported that the new lighting was in throughout the community and had been received favorably. The new basketball poles had just been installed. Although they looked quite different than the old ones, no complaints had been received from those people who used the court.

The property maintenance committee announced that it would take a year off. It was felt that the impact of the maintenance letters would be greater if people did not receive them every year. Letters could still be sent if a particularly bad problem was noted.

The playground committee had lost its chairperson, Caryn Groedel, who was moving to Ohio. Susan Klise agreed to try to pull together a reconstituted committee and to serve as its head.

Cora Alter planned to give a report on the 25th anniversary celebration at the June meeting. Since a chairperson had not yet been found for the family part of the event, the Board agreed that it should not be held on the Fourth of July.

Under old business, the status of several architectural control matters was discussed, including the Azarmi-Por deck and the June's basketball hoop. The Junes had written to express their willingness to submit the matter to RCOCA for non-binding mediation. The Board agreed to acknowledge their letter but to await the outcome of the mandatory mediation scheduled for May 29th in the Wenhold case. The Board tabled further discussion of the expanded ACC guidelines until the June meeting.

Under new business, Susan Klise placed her name into nomination for treasurer to succeed Mercia Decker, who had resigned. She was elected by unanimous vote.

Russ Brown wanted the Board to look at the issue of traffic safety, particularly as it related to the stop sign at the corner of Welwyn and NME. Since no one ever stopped, he felt a yield sign would make more sense. The Board agreed to take this matter up in June.

The meeting was adjourned at 11:30 P.M.

Addendum to May Board Meeting

Legal Discussions

Steve Silverman met with Geoff, Rose, and Mitch the day after our April Board meeting. Geoff was still concerned that communication between New Mark and Steve left much to be desired. Opinions held by Board members varied. Mercia pointed out that Steve easily could have suggested we take everything to court so that he could earn more money, yet he did just the opposite. Russ felt that after hearing Steve only once, he was uncertain just what counsel our counsel was giving us. He felt the advice was ambivalent. Susan felt he tended to say what he thought we wanted to hear. Rose said that she had talked to Jonathon Bromberg by phone and to Jeff Van Grack in person. Mr. Bromberg felt we should negotiate with Azarmi-Por on the primary issue...the deck. For example, we might suggest he reduce the deck in size by 50% and take off the part that wraps around the side. If such negotiations didn't work, he was willing to take the case, although he had never litigated an Architectural Control matter before. Mr. Bromberg would charge \$160/hour. After hearing a description of the Azarmi-Por case, Jeff Van Grack felt we had a pretty good case. He suggested that for an additional 3 hours or so of work (at \$140/hour), he could read the pertinent documents, come out and look at the community and render a second opinion. David Wolfe moved that we hire Van Grack for this purpose. Russ seconded the motion, which passed unanimously. Russ moved that we terminate our retainer arrangement with Steve Silverman, which was due to expire at the end of May. We would, instead, ask Steve to continue working on the other issues (such as Wenhold) on an hourly basis. Neil seconded the motion, which passed unanimously. The Board also felt it would be a good idea to invite Jeff Van Grack to our June meeting.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
WEDNESDAY, JUNE 3, 1992

ATTENDEES: Geoff Becker, Russ Brown, Susan Klise, Mitch Shein, Neil Stein, David Wolfe, Leslie Becker, Tom Curtis, Dale Friend, Dan Langan, Chuck Montrie, Ralph Mittelberger, Rose Krasnow.

The meeting was called to order at 7:33 P.M. by President Geoffrey Becker. Dale Friend was present at the community forum to update the Board on the ongoing discussions with Rockville about the fate of the sycamore trees on Tapiola, Farsta, and Scandia. To summarize, Dale said the trees were too large, were losing their bark, their branches broke off easily, and the roots lifted the sidewalk. The City had agreed to replace the trees that were in the worst shape if the owners would pay the cost of removing them (estimated at \$200 - 800 tree) and if at least half of the residents agreed that they did not like the sycamores. George Kozar of 2 Tapiola had suggested as a compromise that the City could clean the streets on a weekly basis, but the City Forester was only willing to agree to one extra cleaning a year. Dale said that the committee's next steps would include getting a tree count and conducting a survey to learn the preferences of those affected. The Board suggested that prices for removal be obtained from one or more tree companies.

The minutes of the last meeting were approved as read. The agenda was changed as followed: a presentation by Cora Alter on the 25th Celebration was deleted, the Playground Committee report would be the first committee report given, and a report on RCOCA would be given by guest Tom Curtis.

Under correspondence, Rose read the irate letter received from the Knoblocks concerning the Association's request that they refrain from parking in the fire lane in the 800 block. The Board asked Rose to check to see if the Knoblock's were still parking in the zone illegally. The Board had also received a letter from George Kozar of 2 Tapiola who wanted something done to improve the looks of the Clubhouse parking lot. He suggested a small fence might be erected, paid for by a charge that could be assessed against those who stored vehicles in the lot. The Board felt that a newsletter article should be written that would apprise residents that in response to numerous complaints, the Board planned to develop new rules concerning the clubhouse lot because it had become unsightly and a home for abandoned vehicles. Community input was encouraged.

The playground committee had distributed three proposals for a 30 by 60 foot playground to be constructed where the volleyball court now stands. This site was chosen because volleyball was played very rarely, the area was shady, and benches were already in place. Although the committee had originally sought bids for wooden equipment, they had opted instead to use metal because it required far less maintenance, it would not have splinters, and it was not as subject to vandalism. Once an order was placed, the equipment

would arrive in approximately six weeks, so the committee was eager to get the order in as quickly as possible. Chuck Montrie said that when the timbers surrounding the play area are put down, we should be sure that a drainage way is created so that the water will be able to drain. This will prolong the life of the wood chips. Mitch Shein was concerned about the liability of installing swings. Leslie Becker responded that swings appeal to all ages, even adults, and that according to the experts, they have always been the most popular type of playground equipment. Mitch was also concerned that we should make the playground larger even if it meant that money over and above that contributed by Tower Oaks had to be spent by the community because he wanted to be sure that children between the ages of 1 - 3 had enough to do. He again questioned whether the swings were the best use of space. Russ said that Mercia's main concern was that we protect the green space. He suggested we move ahead and we could always add more items later on. He moved that the Board approve the playground in concept and the committee should come up with a final plan and price. The motion passed unanimously.

Chuck Montrie introduced Dan Langan, his supervisor for all four pools. He said that Dan would come to our pool daily to ensure that everything was going smoothly. Chuck reported that attendance at the pool had been very low, in large part due to the weather. He questioned whether the Board wanted to have matting installed in the showers at a cost of approximately \$250. The matting would look more attractive and could be expanded to other parts of the dressing rooms if it proved popular. The Board approved the idea in concept but wanted to take another look at pool expenditures to see if one item should receive priority over another. Rose pointed out that the existing hot water heater was only an 85 gallon model, and many members of the swim team had complained that there was not enough hot water for showers. Rose also said that Chuck had donated a diving board to New Mark because he felt it was in better shape than our existing one and he no longer had any use for it. She also brought up the fact that an incident had occurred at the pool on Sunday, May 31st, in which a young guest, a former NMC resident, had been injured. Chuck explained that the guest was leaning over the edge of the pool, trying to retrieve a ball, when a guard came up from behind and playfully tried to scare him. The boy was so startled that he fell head first into the pool and badly scraped his face and suffered a concussion. Chuck took full blame for the incident and said it was the first claim against his company in 13 years of doing business. Although Russ urged Chuck to adopt a policy that guards should not play with the children, Chuck said that he, in fact, encouraged such playfulness because it improved the relationship between guards and residents. However, ball playing would henceforth be limited to the pool, with no play allowed on the deck. Mitch then said that the swim team had requested their annual allocation of \$500.00. Since this was already in the budget, the payment was approved.

Tom Curtis, a resident of Rockshire and one of the founders of RCOCA (Rockville Commonly Owned Community Association) explained in

some detail what the Board could expect if a dispute was sent to RCOCA for resolution. He stated that after the dispute was submitted along with a copy of the covenants, it would be reviewed by an attorney, at no charge, who would determine whether the complaint was one that could be handled by RCOCA. Assuming that it was, both parties would meet with a mediator who would suggest actions that could be taken to resolve the dispute. If mediation didn't work, the matter would be referred to arbitration. Although not technically binding, Tom said that both sides would be asked to sign a contract saying that they would abide by the decision of the arbitration panel. However, he said that arbitration could still occur even if the agreement wasn't signed. Tom said that if the matter still ended up in court, nothing from the arbitration proceedings could be submitted as evidence. However, before agreeing to a hearing date, the Court usually asked if all other remedies had been exhausted. He said that the entire process usually took about 90 days, but this could be lengthier since meetings over the summer were hard to arrange.

Tom suggested that we check with the City to see if a building permit was required for the construction of a basketball court. He also suggested that we invite a person from Licenses and Inspections to one of our meetings and invite the community to attend. Finally, he suggested that our Architectural Control Committee should have a set, regular meeting date so that people could appear before the committee and resolve some of their differences early in the process.

Also under Architectural Control, the Board discussed Lorin Jurvis's proposal to build a pathway on common ground. It was suggested that we ask our attorney about the feasibility of the Board's granting an easement so that we could be excused from liability, maintenance and other costs associated with such a path. The Board also wondered what would happen if Mr. Jurvis were to sell his home.

Ralph Mittelberger appeared late in the meeting to ask why his wife had received a call that evening saying that his son, Danny, had been dropped from the swim team. Ralph knew that his son was not a strong swimmer, but it had been his understanding that New Mark's team was not particularly competitive and that no child would be excluded. Members of the Board said they were completely unaware of this situation and agreed to look into it immediately.

The Board then discussed the second opinion letter received from Jeff Van Grack concerning the Azarmi-Por case. Several members liked it quite a bit, but others felt it totally failed to state the reasons why Mr. Van Grack felt we should pursue the case. The Board agreed to set up an extra meeting as soon as possible and invite Mr. Van Grack to attend so that this matter could be resolved. A date of June 11th was proposed if Van Grack was available.

Given the lateness of the hour, the remaining items on the agenda were postponed. The meeting was postponed at 10:35 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS EXECUTIVE SESSION
THURSDAY, JUNE 11, 1992

ATTENDEES: Mercia Decker, Geoff Becker, Neil Stein, Russ Brown, Susan Klise, David Wolfe, Rose Krasnow, David Melnick, Jeff Van Grack.

The Board met in Executive Session to discuss several legal issues. The meeting was called to order at 7:30 P.M. by President Geoff Becker. David Melnick was present to discuss the outcome of court-ordered mediation with Paul Wenhold of 106 NME. At the first session, held Friday, May 30th, Mr. Wenhold was not present although his attorney was. It was the mediator's opinion that the Board had a weak case. He felt that the difference in color was too minor to get the support of a jury. In prolonged discussion, David kept asking what Mr. Wenhold would be willing to give if the Board agreed to drop the case. Since Mr. Wenhold wasn't present, a second mediation session was set for Tuesday, June 9th.

At the second session, David and Silverman discussed the possibility of sharing the cost of a new roof or having Mr. Wenhold contribute money toward other improvements in the community. The possibility was raised that the Board might contribute \$500 toward Mr. Wenhold's legal fees, if he would agree to change his roof. However, Mr. Wenhold flatly refused all of these options. Ehrlich then said that Wenhold would be willing to write an open letter to the community expressing the importance of following the ACC process and making it clear that litigation was both costly and unpleasant. David felt that we should accept this compromise. He felt that the case was a loser in court and that a jury would feel the matter was a trivial one. Mr. Wenhold might gain support because a lighter roof was in fact more environmentally responsible (less cooling required in summer). Moreover, Mr. Wenhold was trying to improve his house by installing a new roof, and the pictures clearly showed several variations in color, even on the lake. Mercia still didn't understand why the Board had originally decided to take this matter to court if the case was so weak. David Wolfe pointed out that originally it was assumed that Mr. Wenhold would back down and change the color of his roof because it would be far less expensive than the legal fees that would be incurred if the matter went to court. Russ moved we accept the letter as written and drop the case. Neil seconded the motion, which passed unanimously. David said the lawyers involved will sign a stipulation of settlement and the case will be dismissed. Mercia wanted to be sure that we were keeping adequate records regarding the case so that residents and future Boards would understand our decision. The Board decided that Mr. Wenhold's letter should appear in the July newsletter to give Rose and Geoff a chance to draft the community's explanation of the circumstances of the case and our reasons for dropping it. The Board wanted to approve the "spin" put on the letter before it appeared in print. Everyone on the Board agreed that Ms. Farrell would basically get off scott free. No one felt we should require her to change the

color of her roof in light of the Wenhold decision, and it seemed quite clear that she had in no way agreed to share Mr. Wenhold's legal expenses.

The Board then heard from attorney Jeff Van Grack, who had been asked to give a second opinion in the Azarmi-Por case. After giving his legal background, Jeff said he understood that the Board had found his letter a little too lawyerly. He said he had driven by Azarmi-Por's house several times, and his rationale for saying we had a good chance of success was based on the following:

1) Mr. Azarmi-Por had never submitted an architectural control application for any of the changes he made. This would have to concern a judge, in light of our covenants. (Jeff wondered, however, if many others had made modifications without permission. If this had been allowed to occur, it would weaken our case.)

2) Jeff did not feel that the structure was acceptable in terms of harmony of the design for at least five reasons:

a: Two large posts were located right in the middle of the driveway and the deck was above the driveway.

b: It appeared that the owners planned to use the deck as a social area; all the other nearby front railings were ornamental in nature only.

c: The size of the deck was significantly larger than any others in the cul-de-sac.

d: The deck was located in front of the house, not the back.

e. The topography was such that the deck violated the privacy of the neighbors.

Therefore, Jeff felt that the Board was using good business judgment should it decide to prosecute this case. Even if New Mark lost, he did not think anyone would have sufficient grounds to challenge the Board's decision to prosecute. On the negative side, Jeff warned that significant cost could be involved, and that every case was very dependent on the judge assigned to it. Based on his own personal experience, however, he felt that a majority of the judges would decide in our favor.

Jeff said that the fact that we told Azarmi-Por during construction that the modifications violated the covenants only strengthened our case. He said that it was unlikely, however, that we could have gotten a restraining order because no irreparable harm could be demonstrated.

Mercia wondered what possible remedies a court might deem acceptable. Might a court accept a smaller, cantilevered deck without posts? Van Grack felt if the court ruled in our favor, it was likely to require the removal of the entire deck. Mercia also wondered if there was any case precedent to determine what constituted a violation of the "harmony of design" concept. Van Grack could only reply that he felt he knew a violation when he saw one.

Geoff becker asked whether the other non-conforming items including the bay window, front door, and porch lights would be part of the

case. Van Grack felt they should be, but he said they might be dropped early on. The fact of the matter was that these other changes were better camouflaged and therefore less noticeable.

Van Grack hoped that the costs could be kept to a minimum of about \$2500, because he felt that little discovery was involved. The figure could change if the other side started deposing everyone. Procedurally, Jeff said that if chosen to pursue the case, he would write Azarmi-Por's lawyer to let him know that his letter of compromise was unacceptable to the Board and asking Hardcastle to go ahead and file his answer to the suit.

Jeff did not encourage the Board to take the matter to CAI arbitration. While he felt the case was just as winnable there, he felt that the circuit court judges knew Jeff well and this would work to our advantage.

Van Grack said he would not ask for a jury trial, and he doubted that Azarmi-Por would either. David Melnick discussed the vandalism incident that had occurred early on in the dispute, and he mentioned that the Board thought it possible that Azarmi-Por was responsible for the vandalism himself. Jeff doubted that any of this would be admissible in court.

Jeff said latches was not applicable because the Board had pursued the violation from the start. When asked about the effect of the Board's decision to let the Wenhold roof remain and the uncertainty surrounding the June basketball case, Van Grack again stressed that the Board had only to show that it had exercised good business judgment and it did not seem to him that it was good judgment to expend \$2500 or more to go after a basketball hoop. He wanted to learn more about the Wenhold case however.

Van Grack said that he would not ask for summary judgment because no judge liked to grant it, since clearly there was a dispute of fact. Van Grack did not know if the court would require mediation, as it had in the Wenhold case. He said that no judge had ever ordered it for any of his other cases.

After Van Grack left, David Wolfe moved that we use Jeff Van Grack to handle this case. Neil seconded the motion. Further discussion revealed that the Board felt that Steve Silverman always seemed to talk out of both sides of his mouth, while Jeff had given us specifics. The motion passed unanimously.

The question of whether to use Van Grack for all our legal matters was postponed until the Board's next regular meeting to be held on July 9th. At that time, the Board also hoped to finalize the ACC guidelines.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, AUGUST 6, 1992

ATTENDEES: Mitch Shein, Geoff Becker, David Wolfe, Neil Stein, Susan Klise, Mercia Decker, Russ Brown, Dan Langan, Stuart Barr, Chuck Montrie.

The meeting was called to order at 7:35 P.M. No one was present for the community forum. Geoff asked that the minutes of the prior meeting be amended to show that the Board had chosen Sunday, September 6th, not Monday the 7th, as the date for the 25th Anniversary Family Celebration. Otherwise, the minutes and agenda were approved as written.

Under correspondence, Bob Astrove of 332 NME had written to find out what could be done to halt the slow sinking of his front patio and the community's sidewalk in front of his home. Rose reported that at least one contractor did not feel that the problem was severe enough to justify the expense that would be incurred to fix it. The Board urged Rose to seek other opinions.

Rose reported that a roadway reimbursement check in the amount of \$804.08 had been received from the County. New Mark has applied for these funds every year since the grant program began, even though the money covers only a small fraction of the amount expended for private roadways, street lights, and snow removal. Unfortunately, since Rockville chose not to participate in the County's new Homeowner Commission, New Mark will probably not be eligible for any future grant monies.

Rose also reported that she had notified the absentee owner of 848 NME that frequent complaints had been received concerning rowdiness and fighting among the new tenants.

Discussions with pool management revealed some small ongoing problems, but on the whole the Board felt the transition had gone well. Indeed, Neil suggested that minor issues such as clogged drains should be brought to the attention of the pool liason, but need not be brought to the attention of the entire Board.

Rose reported that plans for both parts of the 25th Anniversary Celebration were proceeding well. There were no plans at present to rent a tent for the adults only party on the 19th because tents were so costly. Should one be needed, Mercia urged that we get one with a floor.

Under old business, the Board discussed the letter received from John McCabe, the lawyer chosen by RCOCA to mediate the June dispute. Mr. McCabe said that either party had the option of being represented by counsel. Neil moved that we hire a lawyer to represent us at the mediation. Mercia seconded the motion. Neil felt that the Junes were not taking the matter very seriously, but he thought that if they had to spend money to hire their own

lawyer, it would be clear that we meant business. Mitch pointed out that a lawyer might be able to help us get the matter resolved at mediation, thus preventing another costly lawsuit. Mercia felt that a lawyer would be better at protecting our interests. Geoff proposed to amend Neil's motion to read that we would ask counsel whether or not we would be better served by having legal representation at the mediation proceeding. The amendment was not accepted. Neil's motion passed by a 3 - 1 vote. Mercia, Neil, and David Wolfe voted in favor. Susan Klise voted against. Geoff and Mitch abstained. The Board then discussed the best way to handle the new application received from the Junes. Several members felt that the retaining wall and walkway were parts of an entire project encompassing the basketball hoop. Geoff moved that we ask legal counsel what our options might be. (For example, could action on the new request be delayed, pending a decision on the basketball hoop?) Susan seconded the motion. Neil amended the motion to read that we seek counsel from Jeff Van Grack. The motion passed unanimously.

Mr. Azarmi-Por's lawyer had written to suggest that the parties attempt to resolve their differences through court mediation. Neil wondered what we expected to get from mediation that would make it worth the extra cost. Both Neil and Mercia expressed the feeling that there was no reason to be hesitant about pursuing this matter in court because the violations were so flagrant. David Wolfe pointed out that Manny Gordon, the neighbor most adversely affected by the modifications, was quite ill, and that it would be helpful to get this dispute resolved as quickly as possible. Mercia moved that we skip court mediation. Neil seconded the motion, which passed by a vote of 5 - 0, with Geoff Becker abstaining.

Geoff Becker said he thought the board should appoint a committee to address several broad policy issues concerning the lake, including long term maintenance, structural and safety aspects, dredging, proper recreational uses, and the pros and cons of turning the lake over to the city. Dick Leary, current lake chairperson, was interested in working on such a committee and Geoff felt he and Mercia could represent the Board. It was his hope that the committee could start work early in September and make an interim report to the Board by the end of the year. A comprehensive lake plan could be presented to the community at the next annual meeting. The Board gave Geoff their unanimous consent to move ahead.

Under new business, Rose suggested that the December issue of the newsletter be dropped. Since this issue is usually published right around Christmas, it is difficult to find someone to deliver the papers, and they frequently sit on doorsteps until residents return from holiday trips. Neil made a motion that the newsletter be published only 10 times a year. David seconded the motion, which passed unanimously.

The meeting was adjourned at 9:35 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, OCTOBER 1, 1992

ATTENDEES: Geoff Becker, Russ Brown, Mercia Decker, Susan Klise, Mitch Shein, Neil Stein, David Wolfe.

The meeting was called to order at 7:30 P.M. Although no one was present at the community forum, Russ Brown wanted to know the status of the new light on the Harlow Court path. Rose said that now that all the signatures on the easement agreement had been notarized, PEPCO could connect the electricity at any time. Mercia asked that Rick be instructed to clean the path on a monthly basis.

Under correspondence, Rose had received a letter from the Montgomery County police, offering to provide an officer at one of our community meetings. The Board felt it might be a good idea to have both a City and County police officer at our Annual Meeting in March.

The grant application for Road Reimbursement funds had also been received, which was surprising since Rockville was not a part of the County's new Homeowner group. Jeff Van Grack recommended that we go ahead and apply just to see if the request would go through.

Under outgoing correspondence, it was agreed that thank you notes should be sent to Cora Alter, Leslie Becker, and Susan Klise for their work on the 25th Celebration.

Chuck Montrie presented his end of the season report for the pool. He had nothing to compare this year's attendance to, but he felt that the cool weather had kept the numbers down. There had been a total of 5 injuries, 2 of them relatively serious. The number of serious injuries was higher than his average at other pools, but the number of minor injuries was lower. None of the injuries would have any affect on New Mark's insurance. Incident reports for inappropriate behavior had been filed against 3 children. As far as next year was concerned, Chuck was confident that all of our original staff would be back except for Kristen Jepsen, who wanted to be placed at a busier pool. We would need to install a new diving board at a cost of \$6000, and Chuck still planned to purchase a new spinal board, at a cost of \$300 - \$400. In addition, the broken lateral in one of the filter tanks needed to be repaired, and Chuck suggested that we put new sand in all the filter tanks while repairs were being made. Since the pool no longer seemed to be losing water, it was likely that the new leak was in one of the skimmer lines. Chcuk wanted to wait until Spring to have the lines tested, but the Board thought it might be best to proceed with the pressure testing at this time. Chuck anticipated that our contract would go up by 2% - 3% plus \$1200 for a third coach. There was some discussion about discipline at the pool, particularly as it related to the need for a strong, take-charge manager. Stuart had started the season late and had taken time off as well. The Board hoped this could be avoided next year.

The landscape committee presented their final plan for the front island to the Board. The work would be done by Ed's Plant World, with designer Joyce Meyer. The contract price of \$3148.05 included removal of all the existing vegetation, the addition of 20 tons of top soil, and the installation of 5 types of plants (down from 8 in the original proposal.) The cost of the landscape plan was also included in the price. Maintenance cost estimates were not yet available, but Plant World had indicated that they would charge \$100.00 per visit. Russ moved that the plan be accepted. Neil seconded the motion. Geoff amended the motion to read that acceptance of the plan would hinge on Rose's approval of the actual contract language. The motion passed unanimously. Rose was asked to seek the city's assistance in getting some large rocks moved from elsewhere in New Mark up to the site and to help control any traffic problems that might arise while the island was being redone. Rose asked Linda to make sure that the height of the island would not be a problem, given the addition of so much topsoil.

Geoff Becker updated the Board on the first meeting of the lake committee. The members had split into three subcommittees: 1) Dredging, 2) Aesthetic improvements and routine maintenance; and 3) Recreational use of the lake. Rose apprised the Board of the fact that because New Mark's Lake had been built prior to the City's adoption of a stormwater management plan, no mention was made of our lake in the recent stormwater management task force report. This omission had serious implications, because one of the recommendations of the task force was that the City should assume non-routine maintenance responsibilities for privately owned facilities providing storm water management functions for Rockville. Russ suggested that a letter be sent to the City asking why we were not included in the task force report. This would force the city to take a position. Russ wondered what our liability might be, for example, if the dam ever burst. Rose and Geoff agreed to try and draft a letter by the date of the next lake committee meeting, which could then be reviewed by the Board at the November meeting. Rose also pointed out that before dredging the lake, the Board needed to decide whether to remove the willows.

Under old business, the Board discussed whether or not to renew our pool management contract with Bethesda Aquatics. There was a general feeling that little would be gained from starting all over with a new contractor. Mitch moved that we renegotiate our contract with Bethesda, voicing our concerns for stricter enforcement of rules and a stronger, more available, presence for the on-site manager. David Wolfe seconded the motion, which passed unanimously.

Jeff Van Grack had written to inform the Board that mediation through the Bar Association would cost \$300.00 for a half day, with the cost to be split between the parties. David moved that we go ahead with our plans for mediation. Mitch seconded the motion, which passed unanimously.

In response to the June's request to see the ACC applications for other basketball hoops in the community, Rose had drafted a response to mediator, John McCabe, which sought to shed some light on why only two such applications had been received. The Board approved the letter, after suggesting that additional emphasis be given to the Board's concern about the location of the June's hoop with respect to safety. With respect to the June's new application, Rose pointed out that approval had been given for the retaining wall only. Further clarification had been sought concerning the size and location of the brick pathway.

Two bids had been received for the erosion control work behind the dam, with a third bid expected within the week. In order to facilitate the work, Rose hoped to poll Board members so that a contractor could be selected prior to the November Board meeting.

The bid received for concrete repair was \$4550. Since only \$2500 was allocated in the budget, Neil moved that we increase the authorization to allow the needed work to be done. Mercia seconded the motion, which passed unanimously.

The meeting was adjourned at 10 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
THURSDAY, NOVEMBER 5, 1992

ATTENDEES: Geoff Becker, Russ Brown, Mercia Decker, Susan Klise, Rose Krasnow, Mitch Shein, Neil Stein, and David Wolfe.

The meeting was called to order at 7:30 P.M. by President Geoff Becker. The minutes were approved as read. The agenda was modified so that the Treasurer's report concerning ways to obtain more interest on our reserves could be given in conjunction with the Board's discussion of the '93 budget.

Under incoming correspondence, Rose reported that at the community's request, the address of the Clubhouse had been changed from 790 NME to 607 Tegner Way to more accurately reflect its location. A letter was received from Tower Oaks concerning construction of a culvert on their property. At a site meeting with Rose Krasnow and Mark Wetterhahn, Tower Oaks had suggested that the best possible access to the site was afforded by the Pepco easement behind Scandia. The letter verified that the City owned the land and was amenable to its use in this manner. The letter also outlined the estimated construction dates (late October and November) and provided other details pertinent to the project. The Association also received a packet from RCOCA which included a complete list of associations in Rockville, an annual report including a financial statement and a summary of the success of the dispute resolution to date, and minutes of the latest RCOCA general meeting, held October 20, 1992, which Rose had attended.

Under outgoing correspondence, Mark Wetterhahn sent a letter to the City on behalf of the residents of Don Mills Court which outlined steps the City needed to take before beginning construction on the infiltration basin. Rose also recommended that a letter be sent to the State to support the City's request that the right turn on red restriction on Falls Rd. in front of Julius West be eased to allow such turns except during the hours of 7 - 9 A.M. and 2 - 5 P.M. Monday through Friday (the hours in which school children are most likely to be crossing the street). The Board indicated its willingness to sign such a letter, but felt it could probably best be written by the City.

Geoff Becker updated the Board on the recent lake committee meeting. The recreation subcommittee appeared to be in favor of certain recreational uses, such as fishing and boating (no motors), but felt that skating and swimming would continue to be banned. The committee was still seeking a response from our insurance company as to the liability issues involved in allowing fishing and boating. The dredging subcommittee had recommended that soundings be taken to determine the current depth of the lake in order to facilitate the decision concerning whether to dredge in '93 or '94. Following the meeting, Geoff and Rick did get measurements at several points. They were surprised to learn that since 1986, only 6 inches to one foot of additional sediment had accumulated. The

shallowest point turned out to be near the small fountain. The Board felt that we needed to seek the advice of experts concerning the best time to dredge. Rose said she had solicited the advice of our engineer, and Norm Hampton was supposed to seek input from the City. Geoff also pointed out that since the willow trees were continuing to cause damage to the lake bank and to the adjacent paths, he felt that it would be wise to remove them when the lake was dredged. Others on the Board, however, felt that the aesthetic advantages of the trees outweighed their disadvantages.

Rose reported that we still did not know the date for the Azarmi-Por mediation, or the exact time for the June mediation scheduled for Wednesday, November 18th.

With respect to the 1993 Budget, the Board focused its attention on those line items that represented a notable change from prior years. The operating subcommittee recommended that Rose's salary be increased by 10% over and above the 1.9% cost of living increase. It was felt that 5% of the increase should be viewed as a merit increase, with the remainder justified by the increased workload Rose was handling as a result of stricter covenant enforcement, computerization of the accounting process, and the desire to keep better records. Geoff made a motion that the Board reaffirm the subcommittee's recommendation concerning the salary increase, but that Rose should be required to provide a job description for both herself and Rick. Susan seconded the motion, which passed unanimously. Neil Stein suggested that a 10% raise still was not adequate. He moved that the Board should study Rose's job description, find out what people in similar positions are paid elsewhere, and revisit the issue after 6 months. Mitch seconded the motion, which passed unanimously.

Mercia questioned whether we needed to budget so much money for part time employees if we managed this year with so little part-time help. Rose made it clear that one part-time person from April through November enables the maintenance staff to perform in a much more timely manner. We had to hire 3 different part-timers this year, because people failed to show up in a consistent manner.

With respect to the directory, there was general agreement that it should be published yearly, but that selling ads would be a good way to recoup some or all of the cost.

Legal fees were set \$5000 lower than last year because the Wenhold case had been resolved, leaving only Azarmi-Por and the June disputes outstanding. Rose was asked to check prior minutes to review earlier decisions made by the Board in the past concerning the best future course of action in the June dispute.

The operating subcommittee felt that the \$500 donation to the swim team should be deleted if the community was going to pick up the additional \$1200 required to hire a third coach. The third coach was required because the number of children on the team had jumped from 48 to 69. Many of the new members were very young, and the

3rd coach was needed not only to coach but from a safety standpoint as well. Neil wanted to know if we were hurting the team by pulling the \$500 contribution, but there was a consensus that swim team dues could be raised or the team could undertake additional fund raising activities.

The lake's budget was in flux because it had not yet been determined whether dredging would occur in '93 or '94. It was hoped that more information would be available to the Board by the December meeting. It was suggested that some savings could be recognized if the hours of operation for the fountains were reduced. The Board wanted to learn how this would affect overall water quality.

Under maintenance, Rose said that she had not increased Rick's \$5.00/week contribution toward his health insurance costs because he had done just what the Board had asked him to do last year - he quit smoking. Mercia recalled, however, that the Board had set up a very definite schedule that would result in Rick paying 50% of his health insurance after a period of several years. Rose agreed to check the minutes from the prior year, and to alter the budget to reflect the Board's earlier decision. Mitch pointed out that the increased health insurance contribution would probably be greater than Rick's 1.9% Cost of Living increase, but it was agreed that at the December meeting the Board could vote to change the scheduled contribution if it was deemed to be unfair.

A new line item in the Maintenance Budget called for \$2000 to be put aside for a new tractor that would be needed in 3 - 4 years. The operating subcommittee pointed out that \$4000 should probably be set aside each year, but the '93 budget lacked sufficient funds. It was suggested that if money in other categories remained unspent at the end of '93, the Board could vote to shift some to this account. Dave Wolfe recommended that this item be called a maintenance reserve, rather than a reserve for new equipment.

Susan Klise, Treasurer of the Board, then reported that she had started looking into ways that would enable us to safely increase the amount of interest we were earning on our money. Buying treasury bills with staggered maturities seemed to be one attractive option. This would preserve our liquidity and would reduce our tax exposure as well. Mercia moved that Susan should prepare a written recommendation. The report should identify the specific criteria used to buttress the recommendation. Neil seconded the motion, which passed unanimously.

Rose explained our current reserve schedule to the Board and pointed out that the schedule had been designed by prior Board members, not by professionals. The Board suggested that Rose talk to a few of the companies that were capable of doing a reserve analysis to find out just what type of service they could provide as well as the cost involved.

The Board generally approved the draft of the letter to the City of Rockville asking that the New Mark lake be recognized as part of the City's storm water management system. Russ wanted us to review the history of the lake so that we would have a better understanding of what Bennett may have promised the City. Mercia wanted to find out how much control of the lake we would lose if we became an official part of the City's system.

The meeting adjourned at 10:05 P.M.

NEW MARK COMMONS HOMES ASSOCIATION, INC.
BOARD OF DIRECTORS MEETING
DECEMBER 3, 1992

ATTENDEES: Geoff Becker, Russ Brown, Mercia Decker, Susan Klise, Rose Krasnow, Mitch Shein, David Wolfe, Jane Glennie.

The meeting was called to order at 7:33 P.M. by President Geoff Becker. Jane Glennie was the only person who appeared to comment on the budget. Jane thanked the Board for publishing the numbers in their entirety but said she was concerned with the high cost of our maintenance salaries. She pointed out that Rick's total salary and benefits package was over \$40,000. In addition, we were paying \$13,500 for part-time help, and we had to pay for all of our equipment and its repair. Jane thought it would be cheaper to contract out for our landscaping services. Rose pointed out that this issue was not a new one. Several years ago, the Board had used an outside contractor and found it to be quite expensive and of poor quality. Moreover, Rick performed numerous other services, such as taking care of the lake, cleaning the clubhouse, making repairs at the pool, snow removal and so forth. Geoff also questioned how you could dismiss someone who has worked loyally for so many years. Jane understood our arguments but said that she felt that she was not receiving enough service, as a single-family homeowner, to justify the dues she has to pay. She recommended that Rose and Rick both write mission statements that could then be used to develop job descriptions. These would help us if we decided to use outside contractors because we would know what was being done. The Board agreed that it might be worthwhile to seek bids from outside contractors next summer, since it never hurts to review a situation.

The minutes were approved as read. Clubhouse parking and the pool were added to the agenda under committee reports. Geoff asked that the June basketball issue be discussed in Executive Session, so that our legal options could be reviewed. An argument ensued over whether Russ and Mercia, both neighbors of the Junes, could be present for the Executive Session. Geoff did not want to jeopardize our case (should it end up in court) by having two affected neighbors present during the Board's discussions. Since no one was certain of the proper protocol, Rose agreed to check with Van Grack on the following day.

Under correspondence, Fred Ducca had written to ask the Board to pay the costs of cleaning a pipe that had caused a sewage backup in his home at 264 NME. The plumber said that the problem resulted from a blockage in a pipe on the common grounds. Rose pointed out that this was the second such backup experienced by Mr. Ducca in the last 18 months. The Gangloffs, at 246 NME, have also had two backups. The Board agreed that we needed to see what types of preventive maintenance could be undertaken to prevent such occurrences in the future.

Rose reported that a check had been received from our insurance

company in the amount of \$339.02 to repair the damage caused when Rick's tractor threw a rock into a window at 140 New Mark Esplanade.

The Mayor and Leah Barnett had both written letters to the Association asking that we oppose any further expansion of the jail on 7 Locks Road. The Board agreed to write a letter of opposition to the County Council and suggested that an article should be put in the January newsletter that would encourage individual residents to write such letters as well.

Eddie Alexander of 266 NME had written to the Board to ask that a fruit bearing plum tree be removed from the common ground in front of his house because of the mess created when the fruit fell. He offered to pay the cost of a replacement tree. The Board felt that this was a reasonable request.

The Americana Centre Condominium had sent us copies of their correspondence with the County concerning the unfairness of the new hazardous chemical law. Beginning in '92, associations with pools received a bill for \$500 from the County because chlorine was being stored on site. The fee purportedly would ensure better response by emergency teams. The Americana had appealed the \$500 charge. The Board felt RCOCA should handle a group appeal.

Under Committee Reports, Susan Klise presented a plan for getting additional interest from our Reserve Funds. With an eye toward the timing of future reserve projects, she suggested that most of the money be used to purchase T-Bills with varying maturities. It was recommended that some be used to purchase shares in a municipal bond mutual fund sold by Calvert. The risk to capital was extremely small, and the fund paid about 2% more interest than Treasuries. Geoff pointed out that the proposed investment plan would require greater attention on the part of the Board. Mercia said that she felt interest rates would probably rise with the Clinton Administration so she thought we might not want to commit our funds for as long as 18 months. Rose responded that by buying varying maturities, we could still take advantage of higher rates, should they become a reality. David moved that we adopt the plan with the understanding that only Parts 1, 2, and 6 could be implemented at the beginning of '93 (with the \$120,000 currently in a Government Money Market Account) and that the remainder would be reinvested as the money became available, assuming that our accountant approved. Russ seconded the motion, which passed unanimously.

Mercia updated the Board on the recent lake committee meeting. The recreational use subcommittee had recommended that no swimming be allowed. No opinion had been reached vis-a-vis skating. However, the committee felt that non-powered craft 20 feet or under should be allowed. The Board raised several questions. Would the fountains pose a hazard to boaters? Would trolling motors be allowed? Was a 20 foot craft too long?. Mitch pointed out that if boating was allowed, it would be on a trial basis only. Moreover,

in view of how difficult it would be to get boats into the water (trailers could not back down to the lake, so boats would have to be unloaded by hand), he felt that usage would be low. Mercia said she would bring the Board's concerns back to the Committee.

Rose and Geoff reported that the erosion control project recently undertaken behind the dam was not working as anticipated. Blame could be placed in part on the contractor who used a geo-textile cloth that was not porous enough to allow the water to seep through. However, the majority of the blame seemed to lie with the engineer, who apparently did not realize that the drainage way was receiving water from such a large part of the community. Both the engineer and the contractor were willing to make adjustments until the desired result could be obtained. It was not clear, however, who would pay for these adjustments. Geoff said that he felt New Mark should only pay for changes that enlarged the scope of the project as originally envisioned, such as rip-rapping the entire channel way. The cost of changing the filter cloth, reconfiguring the dams, and ensuring that the water entered the dry well at the bottom of the hill would not appear to be the community's responsibility. To date, no money had been paid to the contractor.

Mitch Shein again pointed out that the woods between the 100 block and Monroe Street were full of organic debris such as Christmas trees and yard waste. He said that a cleaning of this area was long overdue. Rose said that Rick would do what he could. The Board authorized that up to \$500 could be spent, if necessary, to call in a tree company to help with the clean-up. Russ suggested that Rick document the type of debris removed and the cost involved, so that we could build a case against the homeowner at 611 Monroe who was illegally dumping on our property.

Mitch also said that he had received a bid from Curl Swimming Services which was considerably lower than that offered by Bethesda Aquatics. Rose pointed out that Bethesda had decided not to give us a Cost of Living increase this year, so the difference was not quite as great first appeared. Mitch thought Curl might be giving us a low-ball bid to try and get the contract away from another company. The Board felt Curl should be advised to contact us again in October of '93, after we had experienced a second summer with Bethesda Aquatics.

Geoff distributed a draft of some guidelines dealing with parking in the Clubhouse parking lot. Several questions arose concerning our ability to regulate vehicles if they were registered and our ability to tow any vehicles that were not registered. Rose pointed out that several residents had unregistered vehicles that they wanted to keep. The guidelines would give the Administrator the authority to remove any car (licensed or not) from the Clubhouse lot after 30 days. This policy was necessary because more and more cars (as opposed to oversized vehicles) were being left for long periods in the Clubhouse lot. It was agreed that the city's laws covering the removal of unregistered vehicles should be reviewed. It was also agreed that the new parking policy should be published

in the January newsletter so that feedback could be received from the community.

The Board made only two changes to the proposed budget. The pool operating fee was lowered by \$900.00, based on the actual price received from Bethesda Aquatics. In addition, Mercia moved that Rick pay 10% of his health insurance cost this year (\$10.00/wk), 20% the next, 30% the year after that, 40% the fourth year, and 50% thereafter. Susan seconded the motion. The vote carried by a vote of 5 - 1, with Geoff voting against. It was agreed that the money saved by these two decisions (approximately \$1150) should be put into our Maintenance Reserve category to be put away for future equipment purchases. The budget was then approved unanimously.

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