

# **NEW MARK COMMONS HOMES ASSOCIATION**

## **BOARD OF DIRECTORS MEETING**

**Thursday, February 6, 2020**

**New Mark Commons Clubhouse, 7:00 p.m.**

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Minutes Taken by Shireen Ambush

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### **Attendees**

**Board Members:** Alex Belida, Joe Jordan, Kathleen Moran, Karin Boychyn and Ron Tipton

**Abaris Community Management:** Shireen Ambush, Henry Leung and Glen Charles

### **1. Call to Order**

Kathleen Moran called the meeting to order at 7:00 p.m.

### **2. Community Forum 1 and Board Response**

Raj Gupta urged the Board to refocus its priority for the lake dredging and demand that the City take on this responsibility. The Association pays stormwater management taxes to the City for the last 10 years. The water that flows into the lake is not only from New Mark Commons but also from City streets outside of New Mark Commons. The City may be amenable to take over this responsibility if New Mark Commons allows the City to increase the lakes capacity to retain more water before it flows out. If that is true then the Board should pursue this avenue. The Board should tell the City to stop using our property for dumping excess storm water or take over the maintenance of our lake and streams. The City maintains other ponds and stream along Wootton Parkway and none of the surrounding communities pay it.

Pat Reber continued on the topic about the lake dredging and provided 2 maps from Environmental Affairs that showed where the water flows from. The City knows that water from other areas feed into the lake.

Baxter McBride is a tennis professional who is certified and insured would like to offer a camp after swim practice on the tennis courts. He has done similar camps in other communities similar to New Mark Commons. He can offer different programs and private practice.

Debbie Mesmer asked a question on behalf of Zoe Wood. How much time is spent a week for Board activities? Is the Board covered/protected?

Janet Kelly, City of Rockville Representative- She plans to attend Board meetings to provide updates from the City of Rockville and listen to community issues to pass them along to the City. The next 2021 budget planning meetings will be held on February 24<sup>th</sup>, March 2<sup>nd</sup>, and March 23<sup>rd</sup>. The City's budget will have an increase in water and sewer due to the need for

replacement of the aging water pipes and required payments to WSSC. The census is also coming up.

John Hansman commented on his recent meeting with Board Members, Kathleen Moran and Karin Boychyn which was much appreciated. John sent a memo to the Board earlier today regarding financial clarity and suggesting fund accounting with operating funds kept separate and apart from reserve funds. He urged the Board to consult with Abaris and the Association's auditor on his recommendations.

Board Response:

Ron Tipton and Karin Boychyn responded to Debbie Mesmer's question stating that the time varies when there are different activities/projects going on in the community. Some Board members are part of other committees that also take time. The Board has liability insurance that is covered by the master insurance policy.

Alex Belida encouraged all homeowners who are interested to run for the Board. The deadline for nomination submissions is February 14, 2020. Kathleen Moran thanked Janet Kelly for attending the meeting and providing City related information. Kathleen also thanked John Hansman for his thoughts and feedback which the Board will take into consideration.

### **3. Agenda and Prior Meeting Minutes**

**Board Meeting Agenda, 2-6-20:** Alex Belida moved to adopt the agenda with the addition of one item – Becht Engineering drainage scope of work. The motion was seconded by Kathleen Moran and carried unanimously.

**Board Meeting Minutes, 1-2-20:** Alex Belida moved to approve the minutes as amended. Joe Jordan seconded the motion which carried unanimously.

### **4. Appeals**

None

### **5. Hearing**

None

## **Committee Reports**

### **Lake Committee –**

Lori Nicely reported that the Committee has met a few times since the last report they issued. The Committee continues to explore hydroraking as an alternative to dredging of the lake. The Committee has reviewed the recent proposal received from Bayland. Based on the rough estimate that was obtained from Solitude the cost of hydroraking would be roughly \$162,000-\$237,000 versus the estimated cost from EQR of dredging which is roughly \$210,000-\$265,000

minus the cost of permitting. Hydroraking does not have permitting requirements like dredging and the proposal from Bayland is \$87,000 strictly for dredging engineering services and oversight. Hydroraking is performed in several intervals whereas dredging is done all at once and dredging requires dewatering of the lake whereas hydroraking does not.

Megan Barnea from Bayland was in attendance and commented that Bayland specializes in dredging of ponds and lakes for the past 25 years. Bayland is the primary environmental consultant for the City of Rockville for the past 8 years. The proposal that Bayland submitted includes the following services:

- Field investigations
- Surveys to include a bathymetric survey to determine the approximate amount of sediment that needs to be removed. Solitude Lake performed the last bathymetric study in 2015 and their estimate to update the study is \$14,000.
- A sediment control plan will be needed, and the plan would include replacement of the piers and footers.
- Federal and state permitting which will require MDE approval and preparation of a pre-final design based on feedback during the permitting process which takes 6-12 months.
- The foundation of the sea walls will be inspected once the lake is dewatered.
- The final design will be sent out for bid to 5-6 contractors.
- Bayland will conduct a pre-bid meeting with all bidders on site to answer questions and they will compile the bids and present them to the Board with their recommendations.

Ron Tipton asked Megan Barnea if there is a qualitative difference in results between hydroraking and dredging. Bayland is not familiar with hydroraking and they only specialize in dredging. Joe Jordan inquired as to the size of the lakes Bayland has dredged compared to the lake in New Mark Commons. Megan advised that they are currently in the process of a dredging project at Grosvenor Park involving 2 lakes with a combined sediment of approximately 8500 cubic yards and a 6' depth. The low bidder came in slightly under 1 million dollars.

Alex Belida expressed his concerns with the proposal from Bayland as follows:

Having read the Bayland proposal for \$87,200 just to do preliminary work for dredging, I am concerned not only by the expense, which doesn't actually involve dredging, but also that we may be rushing into this before we know whether the city or county might provide assistance. I am not convinced that we should approve this until we have conferred with the city and county, especially in light of two factors that may work in our favor in seeking financial help:

First it is clear that much of the stormwater that flows into Lake New Mark comes from city streets outside of New Mark, including the runoff coming off Maryland Avenue by the totem pole as well as the homes across the totem pole that sit on higher ground and whose runoff flows under the avenue into a culvert that can only empty into our lake. These homes include the Mayor's, by the way.

Secondly, what are our stormwater fees used for? We should calculate just how much this community pays, collectively and individually, and use that in pressing for assistance. The city's stormwater regulations do permit use of those funds for land acquisition, studies, construction and so forth. Might we benefit from this?

Third, during the city council election campaign many of us asked candidates to explore how the city might help HOAs on issues like this if elected. Some of them were elected and we should now refresh their memories about our requests that they look into it.

Sally Guardia advised that Craig Simineau from the City of Rockville attended a meeting and confirmed that the lake is not designed to serve as a stormwater management facility but there could possibly be some assistance that the City can offer.

Raj Gupta suggested retrofitting the lake to be a stormwater management facility. Megan Barnea advised that it would be very difficult to achieve that due to logistics.

Janet Kelly and Megan Barnea both agreed to contact the City of Rockville to confirm if any assistance can be offered for this project.

Kathleen Moran advised that we will await the response from the City of Rockville as to whether they can offer any assistance to New Mark Commons for this project.

#### **Architectural Control Committee (ACC) –**

Alex Belida reported as follows:

As I have mentioned before, the ACC committee members conducted a neighborhood wide survey in October of 2019 to document violations of New Mark's architectural regulations. We focused on major issues of non-compliance, such as doors, roofs, sheds and deck or balconies.

In all we found close to 90 violations.

After reviewing the results, we broke these down into four main categories:

1. Those meriting immediate enforcement involving current owners whose appeals have been rejected by the Board: we have 10 such cases, two of which New Mark has taken before the CCOC. The CCOC cases have not yet been decided.
2. The second group consists of cases involving violations by current owners which have not yet been brought before the Board for a hearing: we have 36 such cases.
3. The third group includes violations by previous owners or cases in which an ACC ruling was overturned by a past Board. The ACC believes these violations should be corrected at the time of sale or transfer: we have 39 such cases.
4. The fourth and final group is a small one involving violations approved by past Boards or the result of past ACC errors which can only be fixed if the owner proposes a compliant solution: we have two such cases.

The ACC is now reviewing the outstanding cases involving current owners to prioritize those which should be brought before the Board for a hearing. The committee will also continue to monitor with Abaris pending sales to ensure violations are noted in disclosure packages so that they are corrected.

The ACC, acting at the behest of the Board, remains committed to enforcement of the regulations while showing flexibility in working with owners to achieve their external goals.

The ACC also continues to spread the message that residents must always apply for approval before undertaking any external changes, even repainting in the same color or replacing a door with an identical model. Another such reminder will be in this month's newsletter.

Ron Tipton complimented the ACC for personally reaching out to homeowners proactively in an effort to assist them with their ACC applications and answer questions about the approval process and architectural guidelines.

#### **Communications Committee –**

Pat Reber reported that the next newsletter will be a paper issue and the deadline for submissions is February 9, 2020. We anticipate delivery of the newsletter on February 15-16, 2020.

Abaris is sending out the second notice of the Annual meeting on February 18, 2020 and we encourage any homeowners who are interested in running for the Board to submit their nomination by the February 14, 2020 deadline. Kathleen Moran thanked the Committee for their efforts and hard work.

#### **Landscape Committee –**

Ron Tipton reported that the Committee met on Tuesday evening and discussed types of trees to plant within the community and the process that can be used to prioritize locations for tree planting. The date for the Spring Clean-Up will be Saturday, March 28<sup>th</sup> with a rain date of April 18<sup>th</sup>.

The Committee recommends acceptance of the proposal from S&P Tree Care for 3 days of tree pruning at their winter rate of \$1650 per day. Ron Tipton moved to accept the proposal. The motion was seconded by Karin Boychyun. Joe Jordan asked for a response to his previous inquiry. Kathleen Moran advised that this is a lower cost than what they priced earlier due to winter rates being in effect. The motion carried unanimously.

#### **Pool Committee –**

Joe Jordan reported that the Committee met on January 15, 2020 and discussed the July 4<sup>th</sup> pool party planning and entertainment options are being investigated. The Committee discussed rules for private parties at the pool and will review the 2020 pool registration packet before it gets sent out by Abaris. The Committee also discussed liability waivers and is looking into a new pool pass system.

The construction is progressing on the new filtration system and white coat.

#### **Governance Committee –**

Joe Jordan reported that there has been no recent activity on the Bylaws as the Committee is awaiting feedback from legal counsel. The Declaration of Covenants has been reviewed by the Committee. The Committee discussed various items including townhouse parking which will be revisited, rights of the Developer which should be deleted, party walls & easements and exterior maintenance of individual lots. A listening session was held last Saturday which was hosted by

the Committee. A total of 23 homeowners attended and the Committee obtained valuable feedback while maintaining a positive atmosphere. Some highlights from the listening session are as follows:

- Increasing the ability to cross reference topics in the governing documents
- ACC enforcement
- Fines
- Dues discussion – cap on annual increases and reconfiguration of tiers of dues based on style of home.

**Welcome/Social Committee** – Karin Boychyun reported that the Welcome Committee has greeted several new residents upon being notified by Abaris when a house has been sold. There are still seats available for the International Dinner so residents who have not signed up are encouraged to do so.

## **6. Treasurer's Report**

Karin Boychyun's Treasurer's report is as follows:

Now that we have the 2018 audit finalized and the 2019 preliminary results are in, I would like to spend a couple of minutes today on New Mark Commons HOA financial status, especially because there were some questions regarding the reserve fund and our expenditure.

It is important for the community to understand its finances. I have to go into some details to draw the bigger picture. Some of the confusion was caused by the restating of our 2015 and 2016 financial results. Up till then we capitalized all our assets as if we could sell the clubhouse and the tennis-courts separately. This had to be corrected. The result of that correction showed us that we had not enough money in the reserve fund. We also did a reserve study in 2017 which highlighted that we are behind in our maintenance of our capital projects. Those two things led to two major dues hikes, but that is not what I want to talk about tonight. What is the consequence of a \$500,000 correction in your financial statements?

I put together a summary of our financials from 2015 to 2019

There are 3 terms on there I need to explain:

Replacement reserves: is money set aside for capital projects only

Unappropriated Members' Equity: prior years' owners' equity: UME can be used for any operating fund deficits or for capital projects (this should be between 10 to 20% of the HOA's budget)

Contingency reserve: extra funds to cover deficits. This is a budget tool

The numbers in red highlight the major adjustments

\$499,863 restating our replacement reserves due to incorrect accounting of our assets

\$300,000 due to that adjustment, the Board authorized a move of funds from UME to replacement reserves to finance our capital projects

\$893,440 capital expenditure in 2018 that was partly financed by the \$750,000 loan

The operating fund currently shows a \$61,623 surplus, this is only because we did not receive the Board D&O insurance invoice before the end of the year and we only started repayment of the loan in April while it was budget for the full year.

## **Management Report**

Shireen Ambush presented the Management Report from Abaris:

A. **Becht Engineering Drainage Project-** Following a recent walk-around with Board members, engineers from Becht, representatives from Abaris, AW Landscapes and S&P Tree care, Becht has provided a proposal to revise their scope of work and specifications for the drainage and erosion project based on the feedback discussed on the walk-around for a cost not to exceed \$1200. Alex Belida moved to accept the proposal from Becht. The motion was seconded by Karin Boychyun and carried unanimously.

B. **Annual Meeting Guest Speaker** – The Board agreed to dedicate the time to the Governance Committee instead of having a guest speaker. The Annual Meeting will be held on Monday, March 9, 2020.

## **7. Old Business**

A. Joe Jordan commented that his emails to the Board sometimes go unanswered. Board members concurred that it is not intentional and everyone will pay closer attention to being responsive to all emails.

## **8. New Business**

A. None

## **9. Community Forum 2**

A. Raj Gupta requested clarification on the difference between unappropriated member's equity (UME) and contingency reserves. Karin Boychyun provided the explanation that UME is the cumulative year-end surpluses or deficits the Association has had since inception and contingency reserves is are additional funds that can be used to cover deficits.

## **10. Executive Session**

A. Karin Boychyun moved to go into executive session for the purpose of discussing homeowner fee accounts. The motion was seconded by Ron Tipton and carried unanimously.

## **11. Adjournment**

Alex Belida made a motion to adjourn the meeting. Joe Jordan seconded and the motion which carried unanimously. Meeting adjourned at 9:22 p.m.