

# NEW MARK COMMONS HOMES ASSOCIATION

## BOARD OF DIRECTORS MEETING

Thursday, July 2, 2020

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 Zoe Wood

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

### 1. Call to Order

Kathleen Moran called the meeting to order at 7:02 p.m.

### 2. Community Forum 1 and Board Response

Pat Reber commented that the people involved with the pool opening did a great job and deserve praise. There have been lots of emails regarding the on line reservations but things have settled and started to slow down now.

### 3. Agenda and Prior Meeting Minutes

**Board Meeting Agenda 7-2-20:** The Board added the following items to the agenda:

- Request not to allow any new outside pool memberships
- Abaris Realty's new vendor compliance program
- Two donations made in memory of Claudia Rathbone should be recognized in the next newsletter.

Karin Boychyn moved to adopt the agenda. The motion was seconded by Zoe Wood and carried unanimously.

**Board Meeting Minutes 6-4-20:** Karin Boychyn moved to approve the minutes as amended. Zoe Wood seconded the motion which carried unanimously.

### 4. Appeals

- The appeal for the front door violation at 850 New Mark Esplanade has been rescheduled to take place at the virtual August Board meeting as the homeowner requested.

### 5. Hearing

None

## **Committee Reports**

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

Kathleen Moran reported that the Committee has not met and will be meeting next week. The CCOC case involving the unauthorized roof at 238 New Mark Esplanade was settled by the Association's new legal counsel, Ruth Katz on June 26, 2020. The mediation hearing for the unauthorized shed at 13 Tapiola Court is scheduled to take place in September. Alex Belida suggested that we engage the expertise of our new counsel, Ruth Katz to review the shed case and to review proper procedures for filing future CCOC complaints.

Joe Jordan inquired about pools in back yards and electric car charging stations. Kathleen Moran responded that there has been no further discussion or interest in pools and the electric car charging station was a discussion in relation to the sale of a home, but no actual application was submitted.

### **Communications Committee –**

Alex Belida stated his utmost admiration for the members of the committee. Lots of work goes into the preparation of the newsletters, annual directory and pool on-line reservation system. We hope everyone abides by the honor system and no one is taking advantage when using the on-line reservation system. Karin Boychyn commented that more people are signing up for email notification that never provided their email address before which is an advantage of the on-line pool reservation system.

### **Landscape Committee –**

The Board reviewed three proposals obtained by Abaris for the removal of the leaning black cherry tree in front of 148 New Mark Esplanade and trimming of the pin oak trees in the 200 block of New Mark Esplanade. Joe Jordan expressed his concerns about the bid from S&P Tree which called for a crane to remove the leaning tree and recalled an incident in the past where a crane was supposed to have been used but ended up not being used. Joe also noted that S&P's bid was the highest among the three bids and he is pleased that Bartlett was not the high bid as they usually are. Joe emphasized his desire for Abaris to get three bids on any and all tree work in the community. Joe further commented that he is interested to know what kind of relationship Abaris has with S&P Tree as to why Abaris is always in support of awarding them contracts. Karin Boychyn commented that she is also curious on the relationship Abaris has with certain vendors. Zoe Wood commented that it's not unusual to award contracts to a preferred vendor who the community has used successfully in the past such as with the current pool vendor which we normally do not bid out additional work that may be needed at the pool so why is it necessary to always get three bids for tree work? Joe Jordan disagreed with the notion of asking a preferred vendor to match another low bid as vendors get complacent over time. Shireen Ambush commented in response to the comments made regarding Abaris in this discussion. She stated her disappointment that Joe Jordan, a member of the Board, would make such disparaging comments implying that Abaris has some sort of financial interest in any work that is done in the community by a third-party vendor. She commented that Joe Jordan's comments were hypocritical considering that he has never insisted in bidding thousands of dollars of pool related repairs and equipment which is sole sourced to the current vendor, Pool Personnel. She stated for the record that Abaris Realty has no interest in any third-party vendor whatsoever. She also confirmed that in the history of Abaris managing the community, we have bid out tree work and time and time again, S&P Tree has consistently come in at the low bid because as she has explained before, they are a small family owned and operated company with much lower overhead than a large-scale company like Bartlett Tree. This is the main reason for the price disparity and it's no surprise these two other vendors came in low after losing the previous bids

so many times just to get their foot in the door at New Mark Commons. That's a good thing for the community but should not be misconstrued as Joe Jordan characterized in his earlier comments which Shireen did not appreciate. Zoe Wood stated her appreciation for Abaris, a property management company that has been doing business for decades. She appreciates the perspective Abaris has in the industry and their ability to bring in a variety of proven vendors to service the community. Zoe suggested that we defer to Ron Tipton's input as the Board liaison to the Landscape Committee. She also wants additional time to review the bids and agreed to do more research and report her recommendation to the Board at the next meeting. Joe Jordan disagreed postponing a vote on this matter and recommended voting now. Alex Belida stated that he is willing to defer the decision until the next meeting. Kathleen Moran called for a Board straw vote on whether to postpone a decision until the next meeting. All Board members except Joe Jordan agreed to defer the decision to the next meeting and Abaris will inquire again with S&P Tree on the use of a crane and whether the job can be done without it.

Kathleen Moran recapped the tree work done at 17 Tapiola Court and erosion/drainage/ground cover work done in the 200 block of New Mark Esplanade.

The tree trimming request from 854 New Mark Esplanade will be referred to the Landscape Committee.

The contributions in memory of Claudia Rathbone will be used to defer the cost of the tree planting in the 500 block of New Mark Esplanade.

#### **City of Rockville Response to Lake Dredging –**

Kathleen Moran and Shireen Ambush had a conference call with representatives at the City of Rockville last Friday which was very informative, and we have asked them to provide a written summary of the discussion on that call. Shireen gave a quick summary of the highlights of the call as follows:

- The City Hydrologists do not think the lake needs dredging at this time from an environmental/functionality perspective.
- Dredging for aesthetic reasons is up to the community if they wish to pay for it.
- The City does not think we need another Bathymetric study to determine the sediment level in the lake because we can estimate it based on the last two Bathymetric studies that have been done in the past.
- The credit the City is offering on the annual stormwater management fees will eventually build up over time and when the lake is truly in need of dredging, a significant portion of the cost could be paid using the savings from not having to pay the annual stormwater management fee.

Alex Belida wants to know the cost to comply with the City's requirements for private stormwater systems. Zoe Wood expressed her concern that the Association may lose autonomy to make decisions on the maintenance of the lake if we proceed as the City is suggesting. We will await the written summary from the City.

#### **Pool Committee –**

Joe Jordan reported that the pool opening has gotten off to a great start. The on-line reservation system is working well. We have had some issues with people not showing up for their reservations and some trying to sign up for multiple times per day. The Committee will closely monitor this. John Curry at Pool

Personnel will bring in extra staff to meet County requirements without cutting swim time. Outside memberships are limited to 50 and the Board agreed that no additional memberships will be allowed. Karin Boychyn thanked Joe Jordan for all of the time he has spent on the pool. The Board discussed the request from a resident for a refund of their non-resident membership fee as they decided not to use the pool. There has also been another request for a pro-rated refund. The Board agreed unanimously to issue the full refund to the non-resident member who has not used the facility at all this year and to table a decision on the request for a pro-rated refund until the end of the season.

Alex Belida inquired about a new NMC Pool Facebook page that has been recently created. Karin Boychyn and Joe Jordan stated that they are moderators of the Facebook page. Karin explained that it was created and shared with some of her neighbors announcing the pool opening and the on-line reservation system. Shireen Ambush cautioned that if the Facebook page is represented as belonging to NMC, the Association has potential liability for posting that are made on the page and this should have full Board approval.

Joe Jordan thanked Kaitlyn Ambush and Henry Leung for their polite and pleasant assistance with the pool fob/registration process this season.

#### **Governance Committee –**

Joe Jordan reported that the Committee met twice in June and the next meeting is on the second Tuesday in July. The discussion will focus on the dues alternatives and a date/time will be scheduled for a listening session to hear community feedback.

**Welcome/Social Committee –** Karin Boychyn reported that the Welcome Committee continues to greet new residents upon being notified by Abaris when a house has been sold using social distancing. Two more new residents were greeted this month.

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

Karin Boychyn reported that NMC is in a good financial position and funds have been committed for the drainage/erosion project. The Association currently has approximately 1.2 million dollars in cash on hand. We are continuing to pay down the commercial loan that was taken for the parking lot repaving project. The outside pool membership revenue is down as to be expected due to the Pandemic. We will likely end the year in a surplus and overall NMC is in good financial shape.

Kathleen Moran reported that the tree removals in connection with the drainage and erosion project will be performed during the second week of July and AW Landscapes will schedule the drainage and erosion project sometime in August.

## **Management Report**

Shireen Ambush presented the Management Report from Abaris:

- A. **Becht Engineering Proposal for AIA Drainage/Erosion Project-** The Board reviewed the proposal from Becht Engineering for drafting the AIA contract for this project and their engineering oversight of the project totaling \$16,000. Karin Boychyn made a motion to accept the proposal. The motion was seconded by Alex Belida and carried unanimously. Karin also reported that Jim Denny looked at the pedestrian bridge which needs some maintenance and bids are being sought by Abaris.

B. **Re-Opening of the Playground and Basketball Courts** – Montgomery County and the City of Rockville have announced that playgrounds can re-open provided that CDC guidelines are followed. Joe Jordan moved to authorize opening of the playground and basketball court. The motion was seconded by Karin Boychyn and carried unanimously.

C. **Board Code of Conduct** – Alex Belida reminded the new Board members to sign the Board Code of Conduct and return it to Abaris so we have it on file.

D. **Legal Counsel** – Zoe Wood made a motion to ratify the email decision to retain Ruth Katz with Lerch, Early Brewer to serve as the Association’s general legal counsel and collection attorney. The motion was seconded by Alex Belida and carried unanimously. Kathleen Moran explained that the retainer is a month to month option for the Board and allows for unlimited phone calls to seek guidance from Ruth. It can be discontinued at any time. The Board agreed unanimously that given the many issues NMC is currently dealing with, we would benefit from the retainer and save on legal fees. The retainer will begin as of July. Kathleen and Shireen will schedule a conference call with Ruth Katz to discuss pending ACC matters and the Becht Drainage contract. Shireen Ambush commented on her many years of working with Ruth Katz who serves as general counsel for several other Abaris managed communities. She is especially well versed with the Montgomery County CCOC which is the main mechanism that NMC has available to resolving disputes with homeowners over ACC and maintenance matters. Shireen is confident that Ruth Katz will represent NMC well.

## 7. Old Business

A. None

## 8. New Business

A. None

## 9. Community Forum 2

A. Pat Reber stated that the tree tributes will be noted in the newsletter and on the website. Pat expressed her concern about the Pool Facebook page that was created without Board approval. The link could get posted and go viral. The Association has been very strict in the past about not engaging in social media platforms such as NextDoor and the Board should exercise equal caution with this new Facebook page and reconsider having it taken down. Pat requested that she be notified of the date for the tree removals so that it can be posted on the website. Karin Boychyn responded and stated that the new Facebook page is kept private only to members of the community and is being monitored by herself and Joe Jordan. They have been very careful with keeping the sign-up link confidential. Zoe Wood understands the concerns expressed by Pat Reber and stated that there needs to be one single voice of the community through the Communications Committee. Alex Belida inquired as to how residents were notified of the new Facebook page. Karin Boychyn responded that she invited her neighbors and they invited their neighbors. Alex stated that this is unfair as the Board was not even made aware or asked about it and every resident of the community was not sent an invitation and given an equal opportunity to know about the on-line reservation system. Alex stated his disappointment that Karin’s neighbors received an unfair advantage over the rest of NMC. Kathleen Moran agreed with the concerns expressed and suggested that we just rely on our website as

the vehicle of communication to the community. We cannot have an inter-active social media platform that would require monitoring constantly. The general consensus of the Board was to take down the Facebook page. Karin Boychyn agreed to take it down.

#### **10. Executive Session**

A. Zoe Wood moved to go into executive session for the purpose of discussing homeowner fee accounts. The motion was seconded by Joe Jordan and carried unanimously.

#### **11. Adjournment**

Alex Belida made a motion to adjourn the meeting. Karin Boychyn seconded and the motion which carried unanimously. Meeting adjourned at 8:47 p.m.