

NEW MARK COMMONS HOMES ASSOCIATION

BOARD OF DIRECTORS MEETING

Thursday, August 6, 2020

7:00 p.m.

Minutes Taken by Shireen Ambush

Attendees

Board Members: Alex Belida, Kathleen Moran, Karin Boychyn, Ron Tipton and Zoe Wood

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

City of Rockville: Lise Soukup and Heather Gewandter

1. Call to Order

Kathleen Moran called the meeting to order at 7:04 p.m.

2. City of Rockville Presentation

Heather Gewandter and Lise Soukup recapped the letter from Craig Simoneau and the conference call that was held with Kathleen Moran and Shireen Ambush regarding the City's response to the request from New Mark Commons for assistance with the lake dredging project. The City is looking at this strictly from an ecological perspective, not from an aesthetic perspective and the City's criteria for dredging is when the lake has reached at least 50% sediment capacity. The lake has not reached this level and will likely not for at least another 5 years based on the rate of sediment accumulation between the last dredge in 2005 and the bathymetric survey conducted by Solitude Lake in 2015 which is 15%. The City recommends having another bathymetric survey conducted 5 years from now to determine the rate of sediment accumulation since the last study in 2015 and use that as a guidance on when to actually dredge the lake. The City has offered to claim the facility as theirs and if New Mark Commons agrees, we will be eligible for a full credit of the annual \$16,000 stormwater management fees that the City has been charging. Those fees can be used towards the future dredging of the lake. Zoe Wood inquired as to what the standards are for private versus public stormwater management facilities. Heather Gewandter advised that if the City takes over the facility, they would be inspecting it every 3 years to monitor the sediment accumulation until it reaches 50% per EPA guidelines. Zoe further advised that the contractor who performed the last bathymetric survey has advised us that we are nearing the point of having to dredge the lake now. Lise Soukup advised that the City has reviewed the last bathymetric survey and confirmed that it did not state the lake would not work as a stormwater facility. It has always been an aesthetic facility. The sediment accumulation tends to be around the edges of the lake where the inflows are located. There is nothing obstructing the flow, so the City finds no justification to dredge the lake at this time. The City's opinion is that it took 10 years to accumulate 15% of sediment and based on that rate of accumulation, they project that the next dredge will not be needed for at least another 10 years or longer. Zoe Wood confirmed that Solitude did recommend dredging now for aesthetic reasons, not based on stormwater management standards. We are also concerned about the health and well being of the wildlife that inhabits the lake. Lori Nicely, Lake Committee Chairperson commented that Solitude Lake specializes in lakes and their threshold for the average depth should be 4 feet. The average depth of the

lake in 2015 according to the bathymetric survey was 4 feet at that time. There is no way to estimate how much more sediment has accumulated since 2015 without performing another bathymetric survey. Heather Gewandter responded that NMC can have another bathymetric survey done at any time to better estimate the rate of sedimentation. The City is not inclined to do another study until 2025. The City's inspection every 3 years looks for fatal flaws such as blockages of water flow coming in and out of the facility or large visible clues that the facility is close to needing a dredge which would require another bathymetric survey. The City's inspection every 3 years is not performed at that level. Ron Tipton commented that the lake is very shallow around the edges and there are mud flats after heavy rains. Lise Soukup commented that she has personally visited and inspected the lake several times recently and in her opinion, it looks great in comparison with the 1200 stormwater management facilities in the City of which 200 are actually publicly owned and maintained by the City. She is used to seeing sediment build-up around the edges and suggested that NMC consider growing aquatic vegetation that supports wildlife and serves as a food habitat for birds. We count on the center of the lake to offset that as long as it is not causing any blockage of water flow or any other ecological problem. NMC needs to weigh the functionality of the lake versus the aesthetics of the lake. The City representatives have reviewed reports from a variety of lake contractors, some of whom may be more interested in making money. There is an economy of scale in waiting and doing the dredge when it is needed for the proper functionality of the facility. Alex Belida inquired as to what actions could be taken short of dredging. The City representatives suggested moving some of the sediment from the edges towards the middle of the lake where the bathymetric survey confirmed the deeper areas are or NMC could consider a partial dredge. The shallow areas of sediment are difficult to collect because the material is too "soupy". It is easier to scoop out when the sediment is consolidated and at a 1-2 foot depth. The mud flats could be addressed by planting aquatic vegetation which could also serve as a screen at the edge of the banks. This would attract birds and other natural habitat as previously described. The City also has grants available for aquatic vegetation to recreate wetland areas for natural wildlife habitat. Zoe Wood inquired if the City has any experience with hydro raking. The City representatives advised that they have no experience with hydro raking. Lori Nicely advised that during the last dredge, the contractor left 1-2 feet of water in the center of the lake for the fish and wildlife to survive. Lise Soukup advised that the Department of Natural Resources prohibits the City from moving fish and wildlife when lakes are dredged and the lakes are drained completely. Kathleen Moran thanked the City representatives for participating in the meeting and advised that NMC will be responding to their recent letter in the near future.

3. Community Forum 1 and Board Response

Saven Wilkins and Lori Nicely raised the issue of boating in the lake. It is impossible to police the lake for fishing and boating. Residents are responsible for reporting unauthorized fishing or boating when they see it.

Ron Tipton advised that he has seen an increase in fishing activity at the lake and confronting those individuals can be uncomfortable.

4. Agenda and Prior Meeting Minutes

Board Meeting Agenda 8-6-20: The Board added the following items to the agenda:

- Resignations from Laura Berthiaume and Joe Jordan

- Two donations made in memory of Claudia Rathbone should be recognized in the next newsletter.

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

Board Meeting Minutes 7-2-20: Karin Boychyn moved to approve the minutes as amended. Alex Belida seconded the motion which carried unanimously.

5. Appeals

- The appeal for the front door violation at 850 New Mark Esplanade has been rescheduled to take place at the virtual September Board meeting. The homeowner will be notified accordingly.

6. Hearing

None

Committee Reports

Architectural Control Committee (ACC) –

Kathleen Moran reported that the Committee met on August 3, 2020 and approved a dozen ACC applications. The upcoming CCOC mediation hearing on September 14, 2020 for the unauthorized shed at 13 Tapiola Court will be attended by Alex Belida, John Hansman and Shirley Steinbach from Lerch, Early Brewer who will represent NMC. Based on advice from NMC's new legal counsel, Ruth Katz, a letter will be sent to homeowners with noted ACC violations and Ruth Katz is preparing a draft of the letter for the Board's review.

Communications Committee –

Alex Belida reported that the new Directories have been printed and distributed to all NMC residents. The Committee has worked closely with the Pool Committee on the pool notifications and another newsletter was issued. An email blast was also sent to alert all residents of the upcoming drainage project.

Landscape Committee –

Kathleen Moran reported that the decision on the tree removal proposals was postponed at the last meeting so that Abaris could reach out to S&P Tree for clarification on the use of a crane. S&P provided a revised proposal for the tree removals without the use of a crane and also provided a written explanation as to why a crane was recommended in their first proposal. Zoe Wood reviewed her investigation of all bids that were presented from Abaris and moved to accept the revised bid from S&P Tree. The motion was seconded by Ron Tipton and carried unanimously.

Kathleen Moran confirmed that she personally addressed the trimming of overgrown landscape obstructing the common sidewalk which a resident complained about.

There was a recent sighting of a canoe in the lake. Although it is not a common occurrence, boating is not permitted and signs need to be posted accordingly. Karin Boychyn suggested installing signs between the 2

ends of the lake and planting vegetation at the lake edges to deter boats from entering. Ron Tipton suggested deferring to the Lake Committee for their recommendation on signage changes.

Ron Tipton reported that the Landscape Committee met on June 21, 2020. The Governance Committee has been requested to add language to the new Declaration to declare the Landscape Committee as a permanent Committee. Ron Tipton has drafted the language for the Governance Committee's consideration. The Committee discussed the erosion on the Monroe Street hillside. The steps need more mulch as this is a point of access and the Committee has discussed several options. Kathleen Moran reported that we need to improve the safety and functionality of the timber steps. The Committee did 2 walk-arounds and will contact AW Landscapes for suggestions. Zoe Wood reported her observations of teenagers cutting through for convenience sake and other residents who are walking dogs or going to the pool. Kids have been seen playing and riding bikes in the spillways with no parental supervision which is a safety concern.

Alex Belida reported that he responded to a resident's inquiry about the recent tree removal and explained that the trees were dying and had to be removed for the drainage project. The Board also discussed the recent email from Mira Frost requesting that the Board consider installing a retaining wall behind her home as part of the drainage corrections. The Board agreed that we will implement what the engineer has specified for now and we can revisit the installation of a retaining wall at a later date if necessary. Kathleen Moran will respond to Mira Frost via email to convey the Board's decision.

The Board took a straw poll on whether or not to allow boating in the lake. The Board agreed unanimously to prohibit boating in the lake and will defer to the Lake Committee on recommendations for additional signage.

Pool Committee –

Kathleen Moran reported that she recently took over as Chairperson of the Pool Committee upon Joe Jordan's recent resignation. Kathleen thanked the members of the Committee immensely for all of the work they did to get the pool opened this year in light of the Pandemic.

The Board discussed a recent incident at the pool involving a resident using a hard ball for playing in the pool. Both Abaris and NMC's legal counsel have advised against any balls in the pool to reduce the risk of spreading the COVID-19 virus. Zoe Wood commented that residents have mentioned to her that ball playing in the pool is annoying and distracting to other pool patrons. The Board agreed that it is hard to change the rules mid-season and that soft, squishy balls will continue to be allowed in the pool.

Kathleen Moran also reported that the current pool pass registration system needs to be reconsidered for next year's pool season. The existing system is based on the honor system trusting that residents who no longer live in NMC don't still try to use the pool. The database must be purged to ensure that only current owners and residents and outside members who have paid their fee are allowed access. The Pool Committee will be looking into various other systems and will make a recommendation to the Board.

The Board discussed extending the pool season past Labor Day. We are awaiting a response from Pool Personnel as to whether they have staffing available to accommodate that. The Board was generally in favor of extending the pool season pending verification of staffing availability and pricing from Pool Personnel. Karin Boychyn inquired as to whether the swim team coaches can use the pool for their practices. The Board requested Abaris to inquire with Pool Personnel and NMC's legal counsel on this request.

Governance Committee –

The Board discussed Raj Gupta's recent letter to the Board regarding the dues structure. The Committee has done an amazing job so far and they have submitted a list of questions to Brian Bichy who will respond within the next week. At the last meeting, the Committee reviewed various proposals for the dues structure. The Board discussed sending out a survey to all homeowners to get their input on the dues structure options. The Committee is encouraged to complete their draft of the new governing documents minus the dues structure which will be considered once the survey results are evaluated. The Board discussed the logistics of conducting the survey and agreed unanimously to pursue it. Alex Belida moved to express the Board's thanks and vote of confidence to the Governance Committee and looks forward to receiving their final draft. The motion was seconded by Karin Boychyn and carried unanimously.

Welcome/Social Committee – Karin Boychyn reported that the Welcome Committee has greeted lots of new homeowners upon being notified by Abaris when a house has been sold using social distancing. A discussion ensued regarding greeting renters but there is no way to know when a new renter moves into the community.

7. Treasurer's Report

Karin Boychyn's Treasurer's Report is an attachment to the minutes of this meeting.

Management Report

Shireen Ambush presented the Management Report from Abaris:

- A. **Clubhouse Rental Request-** The Board reviewed a request from a resident who wanted to rent the clubhouse. After discussing the CDC's cleaning requirements, the Board agreed to keep the clubhouse closed for outside use. Abaris will notify the resident of the Board's decision.
- B. **296 NME Parking Complaint–** The Board reviewed a complaint from a resident that their neighbor is parking their vehicle in the unreserved parking spaces in the lot, leaving their reserved parking space empty. The Board discussed the current Parking Rules which do not prohibit this practice. Shireen Ambush suggested revising the Rules to require residents to first park in their assigned parking space before occupying any unassigned parking space in the lot. Ron Tipton suggested putting a reminder in the next newsletter asking neighbors to do this voluntarily as a neighborly thing to do. Alex Belida said the Communications Committee would take care of it.
- C. **Cracked Concrete Retaining Wall at 334 New Mark Esplanade –** The Board reviewed a proposal from Becht Engineering for the investigation and evaluation of the cracked concrete retaining wall at 334 New Mark Esplanade. Several attempts have been made over the years to fill and conceal the crack but it continues to reappear. Alex Belida moved to accept the proposal from Becht only for Phase 1 for a cost of \$3000 which includes inspection and written structural evaluation of the wall. The motion was seconded by Karin Boychyn and carried unanimously.
- D. **Lake Footbridge –** The Board reviewed several proposals obtained by Abaris for the repairs to the lake footbridge. The Board requested that Abaris obtain revised proposals to include the cost of whatever permits are required from the City for this repair.

E. **Master Insurance Policy Renewal** – The Board reviewed the master insurance policy renewal proposal from HMS Insurance. Ron Tipton moved to accept the renewal proposal which was seconded by Karin Boychyn and carried unanimously.

8. Old Business

A. None

9. New Business

A. The Board discussed the recent resignation received from Joe Jordan effective as of July 12, 2020 and voted unanimously to accept it. The Board discussed the resignation received from Laura Berthiaume effective August 5, 2020 and voted unanimously to accept it. Alex Belida has drafted a call for Board member volunteers that will be sent out to the community and the Board agreed that the positions will remain vacant for now pending what responses we receive from homeowners who may be interested in serving on the Board.

B. Ron Tipton commented on three recent communications that the Board has received from community residents as follows:

1. Pool incident – resident used these words when addressing the Board “stupid and unnecessary and you have made an enemy out of me”

2. ACC decision – resident used these words when addressing the Board/ACC “abuse of privileges and homophobia”

3. Erosion decision – resident used these words when addressing the Board “NMC launched a war on the local ecology”

Ron stated that he is tired of seeing this type of language which is offensive. Shireen Ambush suggested that the Board adopt a “zero tolerance” policy for such abusive language.

10. Community Forum 2

A. Jane from 1 Letchworth Circle thanked the Board for doing a great job and stated she learned a lot by participating in this meeting.

B. Joe Jordan advised that the survey on the dues structure must ensure that only one vote per household is cast. The CDC’s guidelines for enclosed spaces such as the clubhouse is a reduced capacity of no more than 12 people at any given time. The offer from the City on the stormwater management fee credit is a good one and should be accepted by the Board. The Board should also consider offsetting the aesthetic considerations with the functionality considerations as far as the lake dredging is concerned. Joe complimented the Board on a good meeting and thanked the Board for allowing him to participate.

C. Zoe Wood commented about being quoted in the last issue of the newsletter and requested that she be notified in the future before she is quoted again. Pat Reber responded that she covers these meetings as she did for the US Congress and Montgomery County Council per the open

meeting laws in the state of Maryland. She uses her many years of experience as a professional journalist and the Board would have to direct her to stop quoting people that speak during these open Board meetings before she will stop doing it.

D. Debbie Mesmer inquired as to who to contact if one finds themselves misquoted in the newsletter. Alex Belida advised that the Communications Committee should be notified.

E. Alex Belida commented that all Board members should take great care and be sensitive in open meetings as to what they say which is part of the official record.

11. Executive Session

A. None

12. Adjournment

Karin Boychyn made a motion to adjourn the meeting. Zoe Wood seconded and the motion which carried unanimously. Meeting adjourned at 9:30 p.m.

We are in good financial shape at the moment, but we have committed to money towards our erosion projects and as we discussed earlier in the meeting, we are talking to the City about the lake needs and requirements. Currently we have 1.4 mln in the bank.

We are about \$10,000 under budget for our revenue due to less nonresident pool members and no guest fees. For the expenses overall we have spent about \$55,000 less than budgeted. Some of that we will still have to pay for as it is a timing difference but there are a couple of items I would like to highlight.

- 1) \$3000 under budget for entertainment
- 2) \$6000 under budget on utilities
- 3) \$25,000 under budget for snow removal but it can still snow in November
- 4) For the pool we currently under budget for contracted services (lifeguards) and maintenance. We probably will spend that all by the end of the season
- 5) We are also under budget for tree care, but we just committed to spend some more on our beautiful trees
- 6) We are under budget for insurance and taxes but that is mostly likely a timing difference.

With this in mind we feel good about our current budget and we will take these lessons learned into the budget for next year. For that I would like to ask my fellow board members to think about the following questions and I also would like to ask permission to send them to Tom from Abaris to guide us and start our first draft budget for 2021.

- 1) we most likely have a surplus this year, can we use that to lower the dues for next year?
- 2) with 1.4 mln in the bank, is there a benefit to paying off more of our loan early? We are not dredging the lake this year
- 3) Can we give a "COVID credit" to homeowners on the dues? This way we don't lower the dues, but they do pay less?

Principles for the budget:

- No dues increase
- If some of the contracted services increase, where can we budget less
- What are capital projects we will want to do in 2020 and what is priority in 2021