

# NEW MARK COMMONS HOMES ASSOCIATION

## BOARD OF DIRECTORS MEETING

Thursday, November 5, 2020

7:00 p.m.

---

Minutes Taken by Shireen Ambush

---

### Attendees

**Board Members:** Alex Belida, Kathleen Moran, Karin Boychyn, Ron Tipton, Debbie Mesmer, Samuel Scheib, and Zoe Wood

**Abaris Community Management:** Shireen Ambush, and Glen Mammen

### 1. Call to Order

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

### 2. Community Forum 1 and Board Response

Miki Komlosh commented on the letter she recently received regarding her front door not being in compliance which she was informed of years ago. The door was in place at the time she bought the house and she felt that she should have been informed of the violation at the time of purchase. A number of other owners have received approval for a panel style door. Years later, the ACC decided to cite the violation and require compliance at the time the door needs to be replaced or at the time of sale. She felt that people who inherited non-conforming doors should be allowed to sell the home with the door in place and be required to comply when the door is in need of replacement.

John Hansman liked the suggestion of allowing homeowners to participate in the Board meetings by video. He further commented that the current format of the budget is confusing and that there should be a separate operating budget and a separate capital budget. Per the audit, the operating dues are too high and he proposed to reduce operating dues by \$100,000 in 2021. Unappropriated Member's Equity (UME) is an accounting term that he thinks is meaningless until you verify where it came from. Every \$100,000 from operating surplus to the reserves costs \$10,000 in taxes we should not have to pay and we should increase the reserves if needed.

Cheryl Kagen thanked Miki Komlosh for her testimony on the front door violation. She is in the same position and was not informed about her front door violation at the time of her purchase. She thanked the Board for protecting and enhancing the community but expressed her disappointment with the sidewalk replacement performed by AB Veirs. They had to return multiple times and the wrong color of concrete was used. She also commented on the complicated dues payment software and suggested a more user-friendly system given the complexity of the current fee structure.

Shireen Ambush read the following statement on behalf of Raj Gupta: I thank the board for not proposing to raise the annual dues for 2021. However, it remains a matter of concern that the budget does not display the actual and planned expenses separately for each of the two types of expenses – operating and reserve fund expenses. Annual dues are levied on members differently depending on the projected needs for expenses attributable to two types of expenses. It is therefore indefensible to comingle the two types of expenses, operating and reserve, in the budgets. Year-end balances in each fund must be maintained separately as well since they impact on Board's determination of dues to be levied for the following year for operating and reserve funds. As I recall, our auditor has at least once before advised the Board that it cannot use the reserve fund moneys for use on operating expenses. Without a separate display of two types of expenses, one cannot tell whether the Board is complying with that. Lastly, even though the board does not intend to raise the dues for 2021, it remains a mystery what the unencumbered cash balances are projected to be at the end of 2020 in each of the two accounts. Without that information, it is hard to understand whether the dues for 2021 are too high or too low. Thank you.

Nancy Wood asked the Board to move along with the new pool pass system and obtain from legal counsel the definition of a “resident”. We also need to appoint a Board liaison to the Pool Committee.

Patricia Polster thanked the Board for their service and thanked other owners who commented on the front door violations. She also received a similar letter about her front door and she bought her home with the door in place 20 years ago. She was never informed of the violation at the time of purchase. She agreed that the dues system is cumbersome and thanked Nancy for Wood for the reservation system created by the Pool Committee this summer.

Joe Jordan commented that he concurs with the statements made by John Hansman and Raj Gupta. He is also a member of the Pool Committee and is anxious for the new pool registration system.

Pat Reber commented that the Communications Committee recommends extending the reduced advertising rates for newsletter ads.

### **Board Response**

Kathleen Moran responded to all callers about the front door violation letters and appreciated them taking the time to reach out to the Board. A total of 34 letters were sent out for front door violations throughout the community. The Board is not interested in taking immediate action but this is a small step in the right direction to bring back the original design and intent of New Mark Commons. She appreciates the kind words about this year's pool season and the comments on the budget are also well received.

Karin Boychyn stated that most of her concerns will be addressed in her Treasurer's Report and 2021 budget discussion. We are working on an updated reserve study and we encourage comments from homeowners to keep coming. She agreed to send the 2016 audit notes on the UME to the rest of the Board. Karin agreed that ClickPay is not user friendly for a bi-annual dues system which will be discussed with Abaris.

Alex Belida commented that the dues system is under discussion as part of the revisions to the governing documents. Any change to simplify the system will require an affirmative vote of 60% of all homeowners.

Ron Tipton agreed with Alex Belida's comments and stated that it's good to get feedback from the community. The Board is discussing dues for next year and what options are most appropriate for New Mark Commons.

Kathleen thanked everyone for their comments.

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

**Board Meeting Agenda 11-5-20:** The Board had no changes to the agenda.

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

**Board Meeting Minutes 10-1-20:** Karin Boychyn moved to approve the minutes as amended. Ron Tipton seconded the motion which carried unanimously.

### **4. Appeals**

None

### **5. Hearing**

None

### **6. Committee Reports**

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

Kathleen Moran reported the ACC met this week and approved 10 applications. There are a few pending clarifications. A total of 34 violation letters were sent out for front door violations and no immediate action is being taken at this time. The ACC approved a new type of shingle as an accepted standard for New Mark Commons. The ACC is also working on language for roof and siding colors in order to maintain a unified appearance.

#### **B. Communications Committee –**

Alex Belida moved to continue the reduced advertising rates for the newsletter through 2021. Debbie Mesmer seconded the motion. Alex Belida revised the motion to extend the reduced rates through June 30, 2021. Zoe Wood seconded the revised motion which carried unanimously.

#### **C. Landscape Committee –**

Kathleen Moran reported on a proposal obtained from S&P Tree for tree removal at the bank of the lake per the City's recommendation and recent inspection. Trees are not supposed to be in the earthen dam. S&P's proposal is not complete so the Board agreed to table it for now. Ron Tipton reported that the Committee will look into erosion issues around the lake. Pat Reber commented on the old rock swales that are in need of maintenance in addition to the new drainage swales that were installed this year.

These swales need to be maintained to keep them free of weeds and debris as part of the routine landscape maintenance contract.

#### **D. Lake Committee –**

Zoe Wood commented that the Committee needs to have definite directions from the Board on dredging versus hydroraking. Kathleen Moran suggested devoting some time at the December meeting for a lake discussion. The Committee has prepared signage recommendations for the Board's consideration which will be sent by email.

#### **E. Pool Committee –**

Kathleen Moran moved to accept the Committee's recommendation for a new pool registration system per the proposal from Member Splash. Debbie Mesmer seconded the motion which carried unanimously. There are 2 non-resident pool members that are requesting a partial refund of the 2020 membership fee due to limited pool availability due to the pandemic. The Board agreed unanimously that no refunds will be issued.

Kathleen reported on the 3 proposals received for replacement of the exterior doors on the clubhouse which are original and in bad condition. Kathleen has contacted an architect who is preparing a proposal to make the clubhouse ADA compliant. Jim Denny commented that the doors are 50 years old in wood frames which have worn out. The deadbolt on the men's room door is broken but temporarily secured for now. The proposals include new metal doors and frames. The Board agreed to table any decision on the proposals at this time. Samuel Scheib volunteered to be the Board liaison to the Pool Committee.

#### **F. Governance Committee –**

Kathleen Moran reported that the Board met on October 25, 2020 and reviewed the revisions to the Bylaws that the Committee worked on. The Board and the Governance committee went through the entire Bylaws draft and made a number of suggested edits which will be captured for further discussion.

The Governance Committee is down to 2 members. Debbie Mesmer suggested the following actions to restore quorum:

1. Revise the Charter to require only one Board member on the Committee.
2. The following edit to the Governance Committee Charter was approved by the Board:  
"2. C. At least one member of the Committee must be a member of the Board of Directors."
3. The Board should appoint one of the Board members to the Committee to establish the quorum
4. The Board will continue working with the Committee

Debbie Mesmer volunteered to re-join the Committee. Zoe Wood moved to appoint Debbie Mesmer to the Governance Committee and to approve all 3 recommendations. The motion was seconded by Ron Tipton and carried unanimously.

#### **G. Welcome/Social Committee –**

None

## 7. Treasurer's Report

Karin Boychyn gave a brief overview of the finances. The Association has roughly 1.1 million dollars in cash on hand and currently owes approximately \$600,000 on the loan. As of September 30, 2020, the pool membership income and clubhouse rental income is below budget which is to be expected due to the pandemic. We also have some budget line items that are under budget such as community entertainment, utilities for the clubhouse and there has been no snow yet this year and no pool repairs this year. Year-to-date we are approximately \$60,000 under budget and we have spent roughly \$180,000 in capital improvement projects in 2020. The proposed 2021 budget assumes no increase in the dues and we plan to continue with the contributions to the reserves as stated in the budget pending an updated reserve study this year. Some contracted services have increased and we had to reduce the contribution to contingency reserves to balance the budget. The Board will need to have a discussion at the December meeting about capital improvement projects for 2021. To address comments made by John Hansman earlier this evening, we are not spending reserves on operating expenses. Most of the funds in UME was transferred from the reserves. Kathleen Moran commented that we have changed budget reporting in recent years per the suggestions from our independent auditing firm, Goldklang Group. Karin Boychyn moved to adopt the budget as proposed. The motion was seconded by Samuel Scheib and carried unanimously. After the unanimous vote to approve the budget, it was clarified that approval of 2021 dues does not require a separate vote; the vote to adopt the proposed budget included approval of 2021 dues.

John Hansman commented that nothing he has seen indicates that UME was from the reserves. He is concerned about the operating budget surplus and stated that making transfers from reserves to UME is unfair and irresponsible and is like stealing from the detached homeowners. Kathleen Moran responded that when the UME was created, funding was taken from the reserves initially. Last year, the Board moved some funds back to the reserves. Sam Scheib commented on the meeting the Board had with the Association's legal counsel and auditors to clarify UME and no Board decisions were made. Alex Belida commented that both the auditors and the attorney made it clear that the Board can do anything they want to do with UME. Alex originally concurred with John Hansman's position and then he did his own research. At the end of 2016 the reserves were at \$540,000. In 2017, the reserves were at \$133,000 and UME was at \$517,000. He asked why the Board agreed to make the transfer but at this point in time, we are where we are. Karin Boychyn confirmed that in 2016, the Board transferred \$499,863 from reserves to UME. Not many years later, we had a surplus so it makes sense to move more money back to reserves. Zoe Wood responded to the comment made by John Hansman and stated that she was offended by the comment that the Board is stealing anything from anyone. Ron Tipton agreed. The Board agreed to discuss capital reserve project priorities for 2021 at the December meeting.

### **Correction to statement above regarding reserve funds and UME noted after Board meeting concluded; added below to be included in the Nov Board meeting minutes for accuracy:**

In 2016 our financial statements were restated to correct replacement reserve expenditures that had been capitalized and depreciated in previous years. The effect of this adjustment was a decrease in replacement reserves of \$499,863 at the end of 2015 and resulted with a Reserve fund balance of \$67,099 on December 31, 2016.

The UME was adjusted with \$43,234 and \$26,511 respectively to end 2016 with a balance of \$495,903.

## 8. Management Report

Shireen Ambush presented the Management Report from Abaris:

A. **Reserve Study Update Proposals** – The Board reviewed various proposals Abaris obtained from engineering firms to have the reserve study updated. After careful consideration, Karin Boychyn moved to accept the proposal from Becht Engineering. The motion was seconded by Zoe Wood and carried unanimously.

B. **Concrete Retaining Wall in 300 Block of NME** – The Board discussed the request Alex Manolatos that the Association share the \$1200 cost of repairing the crack in the concrete retaining wall. The Board will consider the request after reviewing the actual proposal for the repair.

C. **City of Rockville Permit for Lake Bridge** – The Board agreed to table this until the December meeting pending Zoe Wood’s contact with the City’s permitting office.

D. **AW Landscapes Snow Removal Contract** – Alex Belida moved to accept the renewal contract. The motion was seconded by Karin Boychyn and carried unanimously.

E. **Vehicle Car Accident** – Kathleen Moran thanked Shireen Ambush for her perseverance in dealing with the car insurance company to successfully convince them to pay to replace both doors on the garage so that they match. They originally only offered to pay for the damaged door which would have not matched the other original door.

F. **Clubhouse ADA Access** – The Board agreed to put this matter on the December meeting agenda for discussion.

G. **Clean Water Act Regarding Decks Along the Lake** – Zoe Wood commented that there are environmental concerns with using chemicals to clean/maintain decks along the lake that may spill into the lake while the work is being performed. We need due diligence to make sure people are complying with the Clean Air Act. Alex Belida suggested that references to Acts are useless and he suggested approving a statement such as “Discharge of toxic chemicals in or over the lake is prohibited”. Ron Tipton agreed to draft a statement and Shireen Ambush suggested having it reviewed by legal counsel.

## 6. Drainage Project

Kathleen Moran reported that the project is nearing completion. The Board agreed to table the proposal from AW Landscapes for the earthen dam until we get the updated proposal. The Board discussed the fact that the original rip rap channel was extended 8 feet and Jim Denny and Alan Walcoff inspected the drainage system during a heavy downpour to confirm it is working.

## 7. Old Business

The Board discussed allowing video access to homeowners for Board meetings and agreed unanimously to try it as a pilot.

## **8. New Business**

None

## **9. Community Forum 2**

Joe Jordan asked why there is an Executive Session listed on the agenda. Kathleen Morant advised that it is to discuss delinquent accounts and the pending CCOC complaint.

Ron Tipton reported that a letter was sent to the Maryland Governor, DOT and Comptroller in opposition of the I-270 widening. The Board appreciates Arthur Katz's assistance in drafting the letter. Ron received several requests for a copy of the letter from other communities to help them submit comments.

## **10. Adjournment**

Zoe Wood made a motion to enter into Executive Session for purpose of discussing delinquent accounts and the CCOC complaint. Karin Boychyn seconded and the motion which carried unanimously.

Zoe Wood made a motion to adjourn the Board meeting which was seconded by Karin Boychyn following the conclusion of the Executive Session. Meeting adjourned at 9:18 p.m.