

NEW MARK COMMONS HOMES ASSOCIATION

BOARD OF DIRECTORS MEETING

Thursday, December 3, 2020

7:00 p.m.

Minutes Taken by Glen Mammen

Attendees

Board Members: Alex Belida, Kathleen Moran, Karin Boychyn, Ron Tipton, Debbie Mesmer, Samuel Scheib and Zoe Wood (Joined meeting in progress)

Abaris Community Management: 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

John Hansman commented that he had sent the Board a memo asking for an inquiry into NMC accounting questions. He is pleased to hear that an inquiry is underway by the Board and Abaris. He thanked the Board for the opportunity to speak and for the ability to use the video option of conferencing in.

Board Response

Kathleen Moran, Board President, thanked John for his comments, and for his ongoing perseverance and passion. She noted the accounting issues are still a work in progress. Karin Boychyn, Board Treasurer, added that she would address some concerns during the Treasurer's Report and correction of the November minutes.

3. Agenda and Prior Meeting Minutes

Board Meeting Agenda 12-3-20: The Board had no changes to the agenda.

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

Board Meeting Minutes 11-5-20: Karin Boychyn read a previously emailed correction to the minutes regarding the November Treasurer's Report. Kathleen Moran asked if there were any concerns. None were voiced. Debbie Mesmer moved to approve the minutes as amended. Alex Belida seconded the motion and carried unanimously.

4. Appeals

None

5. Hearing

None

Committee Reports

Architectural Control Committee (ACC) –

Kathleen Moran informed that the ACC has not met yet, so there is no report at this time.

Communications Committee –

Alex Belida noted that Kirsten has offered to help coordinate NMC directory information for the new pool registration system if helpful.

Landscape Committee –

Ron Tipton noted that the landscape committee met on November 17th and they have a 2-part proposal which has been sent to the Board for their review. He noted the 2020 tree care budget has about \$30,000 remaining.

The first proposal is from S&P Tree Care and includes \$3,675 for 15 trees to be pruned and \$5,000 for the removal of five trees. He said these tree projects were put together by J.P. Muller, landscape committee chair, and Jim Denny. These projects are aimed at areas where there were safety concerns or as a result of deferred maintenance.

The second proposal is for work by AW Landscapes in the earthen dam area for a total of \$2,800 to remove vegetation and stabilize the slope path.

A third proposal to remove trees, within 60 days as required by the State of Maryland inspection of the NMC earthen dam, was stated to include removal of the large Black Cherry tree, two holly trees and three locust trees on the Fireside Apartment side of the dam and 13 locust trees near the spillway. The total cost for this work is \$7,300.

The total for the three proposals is \$18,775. After lengthy discussion, it was agreed to defer the scope of work by AW Landscapes.

Some Board members expressed concerns about erosion on the hillside leading down from the end of the 100 block of NME to the spillway where the 13 trees were slated for removal. Debbie Mesmer asked if it was possible to defer the removal of those trees [\$3800] to a later date that might be more practical than winter to address potential consequent erosion needs. Kathleen Moran responded with regard to an erosion remediation concern that we should do one thing at a time, but also that we have the money to remove the trees now in 2020, and we might not have the money in 2021.

Kathleen Moran moved to go forward with the two proposals for tree work by S&P Tree Care for the pruning and tree removals at a total cost of \$15,975. Sam Scheib seconded the motion. The motion carried 6 in favor and Zoe Wood opposed. Zoe stated she was concerned with the fact that the Board was moving ahead too quickly, noting that the State Department of the Environment report contained several

recommendations to be met and perhaps the engineering inspection of the physical lake structures would include better cause and effect advice on the tree removals in the spillway area.

Lake Committee –

Lori Nicely presented a power point regarding a proposal for updated signage around the lake. She stated that the committee collaborated in creating a sign that is comprehensive in nature.

The Lake Committees' proposed sign reads:

New Mark Commons PRIVATE PROPERTY; NO Fishing, Boating, Swimming, Ice Skating; NO Feeding the Wildlife; No Smoking or Vaping; NO EXCEPTIONS; New Mark Commons is an environmentally and wildlife conscientious community.

Comments were made on two different sign designs. The clarity of the sign without the NMC logo was noted as preferred. The recommendation is to replace all 4 existing wood signs (2 on each of each of the 2 posts for viewing in any direction) plus adding two smaller signs one near the bridge/benches and one near the Monroe Street pedestrian entrance. Sam Scheib made a motion to move forward with the sign project with a budget not to exceed \$2,000 which was seconded by Karin Boychyn. The motion passed unanimously. The Lake Committee was thanked for their presentation and thoughtful work.

Kathleen Moran noted there were ongoing questions regarding the NMC lake and the clean water act discussion at last month's board meeting. Ron Tipton responded that he had drafted some language in that regard that was sent to the Board. Karin Boychyn noted it would be good to include this clean water information in the new governance documents and follow up with if an announcement in next newsletter.

Pool Committee –

None

Governance Committee –

Debbie Mesmer reported that the Board had a working session on November 16th where draft revised covenants were discussed and reviewed in an open session with homeowners in listening mode. The proposed revisions included the elimination of provisions that are obsolete such as those that refer only to the developer, as well as update to provisions that were no longer compliant because of changes in state law, and some new provisions such as providing authority to impose fines, establishing the landscape committee as a permanent committee, requiring a reserve fund and other areas that need further discussion. The next meeting will be on Tuesday, December 8th where they will discuss the provisions that need more thought.

The next Board working meeting for governing documents will be in January to discuss dues/assessments options. Tentatively scheduled for January 25, 2021.

Welcome/Social Committee –

None

6. Treasurer's Report

Karin Boychyn reported that the association has just over 1 million dollars in the bank, and currently owes about \$600,000 on the loan. The association has not collected as much revenue as normal, but we also have not spent as much on entertainment, utilities, snow removal, or repairs. NMC is currently about \$60,000 under budget. Only 1% of the homeowners have outstanding assessments due.

Karin stated she has done some research on the UME and Reserve funds by reading old audits and has reached out to the auditors for clarity on a few issues. But as previously stated, in 2016-17 there was an adjustment to the NMC assets and her main question to the auditors is why this adjustment was taken from the reserve funds and not the UME.

She has placed the last 5 years of reserve funding in an overview to plan capital projects going forward for discussion on January.

During the Click Pay meeting with Abaris, a discussion on the benefits of collecting dues on a quarterly basis rather than a biannual basis surfaced. Henry Leung will look into what additional prices would be required to make this change. Kathleen Moran said that the Board would have to seek legal council to make sure this can be done.

Management Report

Henry Leung presented the Management Report from Abaris:

A. **Homeowner requesting Clubhouse Rental in May** – After discussion, the Board stated it cannot promise this use due to the current pandemic conditions. Ron Tipton clarified that the request was not for the Clubhouse but for use of the park area. Alex Belida wondered if the homeowner was referring to the area near the playground, and he did not see why there would be a charge for that. The Board will just have to follow up at a closer date.

B. **Unauthorized Driveway Extension at 4 Bracknell Circle** – Kathleen Moran stated that this issue is primarily between two neighbors. One neighbor has created a pervious parking pad without ACC approval and the next door neighbor fears the pad is hurting her tree's roots. Debbie Mesmer added that it is more than just a parking pad there is a very small retaining wall as well. John Hansman added that had there been an application which most likely would have been approved, given the history of approving similar items in the past. Kathleen Moran said that she would work on writing something up for the homeowners after the next ACC meeting.

7. Old/New Business

The State of Maryland Department of the Environment Dam Safety Inspection Report:

The written NMC lake dam safety report from the State was received late November and includes:

- The option to repair the dam or remove the NMC lake. The NMC Board voted unanimously to retain the NMC lake.
- The report mandates tree removals within 60 days (end of January) of all trees that are on the slopes of the earthen dam or impacting the spillway structures.

- The report further requires an engineer inspection be done of the dam structures to ensure the lake holds water as designed and drains appropriately. Kathleen Moran stated that the lake is not functioning in the typical way as the water first leaves the lake by flowing over the spillway, but it should instead first leave via the overflow flume located mid-lake.

The Board asked Abaris to find an engineer to meet this lake dam inspection requirement. Alex Belida asked what the cost would be, to which Kathleen Moran said the State inspector noted it could run from \$10,000 to \$20,000.

Alex Belida asked how this State inspection got initiated. It was noted to be the result of a conversation between City of Rockville staff and State of Maryland environmental staff. Debbie Mesmer added that an engineering report will be needed for the storm water management and wondered if both could be handled by the same engineer.

Proposal from the City to Reclassify the Lake: Kathleen Moran stated that it is a long process to reclassify the NMC lake to a Private Stormwater Management Facility. Informing the City now of NMC interest could meet the June deadline for 2021 fees issued in July. If done, the \$16,000+/year NMC storm water management fee would be waived. The City's proposal would in 20 years save NMC over \$300,000 or approximately half of the cost of dredging. Kathleen Moran mentioned that Zoe Wood had expressed concerns about how difficult it would be to get out of this agreement and it has been learned that it could be done but legal counsel would be needed. Sam Scheib asked if there is any downside to this agreement, to which Kathleen mentioned that she did not see anything nor did Ruth Katz, NMC legal counsel. Alex Belida mentioned the binding nature of the agreement. Karin Boychyn made the motion to move forward to learn more about the City's private storm water management proposal which was seconded by Ron Tipton and passed unanimously.

Proposal from Lake Solitude for Hydro Raking: Karin Boychyn wanted to clarify if the cost is reflective of a price change in 2021 or is it more work. Zoe Wood clarified that the longer sediment sits the more it accumulates the more it will cost to remove it. Zoe Wood reiterated that the city said it was not required, but that Lake Solitude recommended hydro-raking as it would promote the ecological health of the lake.

Zoe Wood expressed that the lake committee needs a response whether hydro raking is preferred over dredging. Zoe Wood believes that hydro-raking is the better option. Ron Tipton mentioned that he is not convinced that either hydro-raking or dredging needs to be done now. Karin Boychyn mentioned that she was initially thought hydro-raking to be cheaper versus dredging, however the proposals are approximately the same to remove the sediment. Phased hydro raking is recommended to maintain the lake after a dredging or major hydro raking removal of sediment has taken place. Zoe Wood believes that the community should commit to hydro-raking over dredging as the method of choice for taking care of the lake. Kathleen Moran asked if there is concurrence among the Board that NMC not dredge or hydro-rake the lake in the next 1-2 years. The board unanimously concurred.

Karin Boychyn mentioned that she thought there were spots along the lake that were shallower and may need a sort of spot treatment. Kathleen Moran stated that they will inform Lake Solitude that they will not accept the hydro raking proposal at this time, and the discussion will continue. Zoe Wood mentioned in terms of Lake Solitude we may need to ask them to explain any additional treating of the lake with herbicide given that we will not be dredging or hydro-raking in the near future.

Repair of Piers: Kathleen Moran asked if there is interest in maintaining the piers and including them in the capital project discussion in January. Karin Boychyn the piers should be included to have them sound, solid and nice looking. Kathleen Moran mentioned that Becht has been requested to include the piers, the footbridge and many retaining walls in the new draft reserve study because they were not included in the old Mason and Mason reserve study.

Footbridge Repairs: Karin Boychyn asked if by repairing the bridge instead of replacing it the project will still need to get Architectural Permits from the City of Rockville, to which Kathleen Moran clarified that the permits are for repairs. The bridge also remain in the capital project list going forward.

Proposal to Stabilize Timber Planter Box by Lake Bench: Ron Tipton wanted to remind everyone that the foliage in that box was in terrible condition and has been removed which now allows for repair prior to putting in new plantings. The proposal is \$7,800.00 to put caged rocks under the timber wall which can only be done after lowering the lake level for access. Alex Belida thinks it should be included with repair of the bridge and piers. This project will also move forward into discussion for capital projects.

Proposal to Power Wash Concrete Lake Walls: Kathleen Moran mentioned that the last time this was done, the look lasted about six months. Karin Boychyn noted it may have been even less time. Sam Scheib asked how much it would cost, to which Kathleen Moran mentioned \$9,000-\$10,000. Kathleen Moran mentioned that the way it was done also created issues for homeowners. After discussion, it was agreed that this project is not a current priority.

AW Landscapes Proposal to Stabilize Erosion along Pathway from Monroe to Earthen Dam: Alex Belida noted this had already been postponed earlier in the meeting and should be held off until the inspection report from the dam is done. Members of the board agreed with this approach.

8. Drainage Project:

Kathleen Moran stated that the construction is complete, and the inspections continue.

Henry Leung mentioned two items from the management report that still need to be covered, which included making the clubhouse compliant and the replacement of the three doors for the clubhouse, these will be discussed at the January meeting.

9. Community Forum 2

Mrs. Mikhail spoke to concur with comments about smoking around the lake. She is unsure how homeowners would feel about being told not to smoke and recommended maybe advising homeowners not to litter and possibly adding a few more trash bins.

Pat Reber commented that the sign without the logo is the most effective as an easy to read communication and the sign content was well thought out and specific.

10. Adjournment

Alex Belida made a motion to adjourn to enter Executive Session. Karin Boychyn seconded the motion which carried unanimously. The meeting was adjourned at 8:53 pm.

Karin Boychyn made the motion to adjourn the Executive Session which was seconded by Alex Belida following the conclusion of the Executive Session. The meeting was adjourned at 8:58 pm.

Addendum: Treasurer's Report as of 31 October 2020

The Association has just over 1 million dollars in the bank and currently owes approximately \$600,000 on the loan. We have not collected as much revenue (pool income and clubhouse rental) as we budgeted for, but we also have not spent in other areas such as entertainment (\$5000), utilities (\$4000) snow removal (24,000) and pool repairs (\$4000). Currently we are more than \$60,000 under budget year-to-date and we are in good shape. We have spent roughly \$215,000 from reserves so far this year in capital projects (new pool filtering system, erosion project).

I want to thank Shireen and her team for making sure we are collecting all our assessment. At the moment only 1% is outstanding. This was a very different picture not that long ago. I also want to take this opportunity to wish Tom well and hope he makes a quick recovery.

Since last meeting I have done some research on the UME and reserve funds. I reached out to the auditors and don't have a full answer yet. Hopefully in January. I put the last 5 years of the reserve fund in an overview and we will use that next month to plan our capital projects and then by February we should have the first results from the reserve study which can then inform us what to prioritize. Just to list a couple of our main capital projects:

- Dam inspection and repair, footpath from Monroe
 - \$ 7,300 = removal of trees off earthen lake dam as recommended by State of Maryland inspector
 - \$ 20,000= potential engineering study
- Lake (\$400,000)
 - dredging (\$300,000)
 - \$ 87,200 = Bayland proposal for permitting and engineering
 - or raking, \$347,996 = Solitude proposal
 - bridge, is it possible to repair the bridge to avoid permitting? \$5000 to get drawings to get permits
 - piers (\$20,000)
 - \$ 7,800 = AW Landscaping proposal to stabilize timber planters on lake edge by stairs to foot bridge
 - \$ 9,000 = power washing concrete lake wall
 - \$ 334,000 = savings if NMC accepts City of Rockville proposal to reclassify NMC LAKE to a private stormwater management facility
- Retaining walls (\$350,000)
- ADA accessible of clubhouse (\$1,000,000)
- Grandplan for landscaping and trees
- Erosion (\$200,000)
- Pool,
 - Baby pool umbrella \$3500
 - Life guard chair for shallow end \$2000
 - Repair of pool ladder anchors \$2000
 - New pool software \$2000
 - Exterior Doors to clubhouse \$10,000
- Tennis and basketball courts

To name a few. We will continue this discussion in January