

# NEW MARK COMMONS HOMES ASSOCIATION

## BOARD OF DIRECTORS MEETING

Thursday, February 2, 2023

7:00 p.m.

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Minutes Taken by Kaitlyn Ambush

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### Attendees

**Board Members:** Alex Belida, Kathleen Moran, Lisa Halvorson, Joe Jordan, Samuel Scheib, Karin Boychyn, and Tim Petros

**Abaris Community Management:** Shireen Ambush, Kaitlyn Ambush, and Henry Leung

**Homeowners:** Pat Reber, Debbie Mesmer, Saven Wilkins, Zoe Woods, Evin Gossin, Horia Pippa, Amy Potocko, Elyse Hagner, Madeline Gupta, Jim Denny, Peter Krug

### Call to Order

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

### 1. Community Forum 1 and Board Response

Horia Popa of the 100 block of New Mark Esplanade, backing the lake, requested the Board prioritize the installation of landscaping in the area to repair the recent damages near the lake dam.

Saven Wilkins expressed his sympathy for the radical change in landscape by the lake and welcomes suggestions for relandscape.

Zoe Woods inquired if the Board would consider meeting with residents of both sides of the lake to discuss relandscape of the area, as the flood lights from the apartments shine into her home. Zoe inquired why the tree was removed from the interior of the lake and inquired if there is any discussion to install a fence or a gate to deter growing foot traffic, as well as protection to the association in response to the recent safety concerns on Monroe Street. Zoe inquired if the Board would consider installing a “Do Not Enter” or “Private Property” sign to deter foot traffic.

### Board Response

Kathleen Moran noted the Board will discuss the next actions at the dam during the Board meeting, and noted the Board is waiting for Bayland to provide parameters for relandscaping based on what MDE will allow. Kathleen commented that any safety concerns are best addressed with the city police or council.

Alex Belida noted the Board will be discussing proposals received to stabilize the dam. Alex clarified that the State of Maryland required the Association to do this work at the dam and remove the trees as no tree roots are permitted in the dam. The Association is limited to what can be replanted based on what the state will allow.

Sam Scheib inquired if a tall barrier-style fence can be installed to block the view of the apartments. Sam commented that the hill going down to the street by the dam needs to be improved for pedestrian safety and also expressed his sympathy for the residents who live around the lake.

### **Agenda and Prior Meeting Minutes**

**Board Meeting Agenda 2-2-23:** Kathleen Moran suggested the following revisions to the agenda: item B of the agenda to “discuss” not “acknowledge; item C of the agenda to “acknowledge” not “discuss”; item D to approve the proposal for stabilization at the lake/dam; add item F for the discussion on the retaining wall by 326 New Mark Esplanade; add the executive session to discuss a potential legal matter. Joe Jordan made a motion to approve the agenda as amended. The motion was seconded by Alex Belida and carried unanimously.

**Board Meeting Minutes 1-5-23:** Karin Boychyn made a motion to approve the minutes as amended. The motion was seconded by Joe Jordan and carried unanimously.

## **2. Committee Reports**

### **Communications Committee –**

Pat Reber submitted the committee report as an attachment to the minutes. Pat noted that the Email Opt-In policy has been posted on the website and the online directory hosting link has not been activated yet.

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

None.

### **Landscape Committee –**

Saven Wilkins invited the community to participate in the Spring Garden Competition as the committee is in need of volunteer judges for the competition. Saven also noted that the next Community Enhancement Day will be held on Saturday, April 22, 2023, which is also known as Earth Day.

### **Pool Committee –**

None.

### **Welcome/Social Committee –**

Karin Boychyn expressed the committee’s excitement for the February 25<sup>th</sup> International Dinner. The committee is still welcoming new residents and has re-energized the Social Committee to plan future events for all age groups. Karin noted the committee needs volunteers and invited residents to join and help organize events.

## **3. Treasurer’s Report**

Karin Boychyn reported that the December financials were received and indicated \$1.7 million in the bank and \$370,000 owed on the loan. Karin confirmed that the Association was overbudget last year on legal, snow and tree removal, and revenue, resulting in a year-end deficit of \$40,000, which will be covered by the UME. Karin highlighted the capital projects from 2022 such as the resurfaced tennis courts, the ongoing dam repair project, the plumbing and lighting upgrades in the clubhouse, the pier and bridge replacement at the

lake, and the new retaining walls at the clubhouse and pool. Karin noted the year ended with \$800,000 in Reserves and \$135,000 in UME.

## Management Report

None.

### 4. Dues Structure and Declaration Amendment

Kathleen Moran noted the Board reviewed over 50 emails, heard comments from residents during two town hall meetings: 50 attended the 1-22-23 town hall and 64 attended the 1-29-23 town hall. Based on the comments heard, the Board concurred on the following:

- a. Assessment Method: The Board heard 10 voices in favor of the proposed assessment method and close to 100 voices that expressed the proposed method was divisive and there should be one uniform rate of assessment. Sam Scheib noted it was heard repeatedly that we are one community, and everyone should pay the same. Sam noted his agreement with uniform assessments but noted the Board needs to include the shared private driveways of homes and snow removal of those areas should be done by the community. Tim Petros inquired about the legal liability for the Association if the shared driveways are private property. Joe Jordan noted his support to pay the same dues. Alex Belida supports everyone pay the same dues and this is the only option that will get the necessary votes to pass. Alex noted the Association has an hourly rate price for snow removal from AW Landscapes and suggested the Board consider shoveling the sidewalks in the single-family homes. Karin Boychyn noted her agreement to pay the same dues. Lisa Halverson noted her initial support of a separate townhome parking lot fund but will change her vote to support equal dues in support of all those who spoke in favor of it. Lisa noted her support for additional services for single-family homes if it is legally possible. Kathleen Moran commented that what was originally proposed was thought to be equitable but will change her vote to support everyone pays the same. **Motion**: Joe Jordan made a motion to amend the covenants to change the language to support everyone pays the equal assessment dues. The motion was seconded by Alex Belida and carried unanimously.
- b. Legal Fee Recovery: Kathleen Moran noted that many residents did not support the assessment of legal fees incurred to the HOA and would like to see its removal from the covenants. Sam Scheib noted his support to keep the clause as this applies when residents sue to HOA, not just the Board. Lisa Halverson noted the need to keep the clause to protect the Association against unnecessary legal expenses and inquired if there is a Maryland-State Law pertaining to this. Joe Jordan noted his support of the “American Law”. Karin Boychyn noted that the clause is included to discourage lawsuits. Alex Belida noted his support to change the clause so that each party in the lawsuit is responsible for their own fees since the CCOC and courts can award legal fees if the lawsuit is found frivolous. Tim Petros noted his support of the “American Law”. Lisa Halverson suggested the Board confer with legal counsel on the interpretation of the “American Law”. **Motion**: Alex Belida made a motion to replace the language with the “American Law” pending legal review and interpretation of the rule. The motion was seconded by Joe Jordan and carried unanimously.
- c. Fines: The Board discussed the notation of “fines” throughout the covenants and agreed to include “reasonable” before each notation of “fines”. Alex Belida made a motion to insert the requested verbiage. The motion was seconded by Sam Scheib and carried unanimously.
- d. Recreational Facility Fees: The Board agreed this notation mainly applies to non-resident pool memberships. Sam Scheib noted that there are fees for the use of the clubhouse, and the Board may charge fees in the future to park in the clubhouse parking lot. Alex Belida commented that this

verbiage opens the door for future Boards to charge owners a fee for use of the amenities. Joe Jordan indicated that he had sent an email to the Board with suggested language revisions. Sam Scheib inquired why the current Board would remove this verbiage if it will restrict future Boards from making the decision to charge fees is it becomes necessary for whatever reason. Karin Boychyn shared her agreement with Sam. Tim Petros noted that the Board needs to clarify to residents exactly what the intent is. Lisa Halverson inquired if this clause should be restricted to recreational facilities only and what about the other non-recreational common areas? The Board unanimously agreed to leave the language as it is.

- e. Special Assessments: Joe Jordan confirmed that 67% of all 384 homes are needed to pass. Alex Belida objected and confirmed that 67% of members at a special meeting are needed, provided that 20% quorum is met. Tim Petros inquired if the Board can mandate the quorum is met and the vote is not eligible to be taken at a “subsequent meeting”. Shireen Ambush commented that her understanding of a subsequent meeting only applied to Annual Meetings and not Special Meetings, but suggested the Board seek legal opinion. **Motion**: Sam Scheib made a motion to leave the language as is. The motion carried with five (5) votes in favor and two (2) votes abstaining (Tim Petros and Joe Jordan).
- f. Prohibited Usages/ Nuisances: The Board discussed the suggestion to modify the pet section of the covenants. Alex Belida suggests the addition of the provision that does not objectify any animal specifically. **Motion**: Alex Belida made a motion to add the provision “and other pets”. The motion was seconded by Sam Scheib and carried unanimously.
- g. Trash Containers: Karin Boychyn noted her understanding of the concerns raised by some owners that cannot place trash bins out of plain view. Joe Jordan noted his support to change the language to require trash cans not to be stored in plain view, but exemptions can be made for those who need it for medical reasons. Sam Scheib confirmed that enforcement can be via fines. Tim Petros commented that exceptions should come from the Board and not the ACC and requested the change to “the Board may grant exceptions” not the ACC. Lisa Halverson commented that the Board needs to allow for exceptions and agrees the decision should be that of the Board’s. **Motion**: Joe Jordan made a motion to insert language that “the Board may grant exceptions”. The motion was seconded by Tim Petros and carried with the following vote: six (6) in favor and one (1) abstain (Karin Boychyn).
- h. No Tent, Building, Shack: The Board agreed to leave this clause as it. Tim Petros commented that Rita sent an email referencing the upcoming change in codes. Joe Jordan noted that he will send the language suggested by other committee members.

Joe Jordan commented on the language that was not covered and still needs legal review, were sent to Kathleen for Board review. Kathleen Moran confirmed that she will write up all the changes agreed upon by the Board and will send it to Ruth Katz to prepare a draft #2, which incorporates all the changes, and will be sent out to the community for review. The goal is to send a final draft out by the March meeting for community vote. Sam Scheib inquired if a Google Docs sheet can be created for resident commenting. The Board discussed if an additional townhall will be needed, at which time it was agreed that another townhall would not be necessary.

## 5. Old/New Business

- a. The Board confirmed that Bayland was on-site to oversee the stump grindings at the dam for 2 days.

- b. The Board discussed the Pool Committee's request to purchase 6 new umbrella frames and replace some umbrellas at a total of \$1,380. Sam Scheib made a motion to approve the purchase of the umbrellas and umbrella frames. The motion was seconded by Joe Jordan and carried unanimously.
- c. The Board discussed the retaining walls in the 100 and 800-block of New Mark Esplanade and noted ETC's completion of the soil boring.
- d. Kathleen Moran presented an overview of the events leading up to the removal of the trees at the dam and the email blast, which was also sent explaining the event, as well as the onsite meeting with Prestige Tree, AW Landscapes, Bayland, and Abaris to discuss and coordinate the next steps. Kathleen thanked Abaris for going the extra mile and noted the importance of discussing relandscape and installation of a fence. Karin Boychyn inquired if the fence is on NMC property and who owns the fence, at which point Kathleen Moran confirmed that NMC owns the fence, but Jim Denny urged the Board to confirm the exact location of the property line with a survey. Alex Belida noted that confirmation is needed from MDE and Bayland before any relandscaping is done. Tim Petros inquired what the City's height restrictions are for fencing. Abaris will research the fencing height restrictions from the City and confirm with MDE and Bayland on what planting is allowed for the area by the dam.
- e. The Board discussed the dam stabilization proposals received from Prestige Tree and AW Landscapes. Karin Boychyn made a motion to approve AW Landscapes' proposal plus the extra \$2,200 option to promote grass growth. The motion was seconded by Tim Petros. Alex Belida noted his uncertainty with approving a proposal without MDE approval, but Kathleen Moran confirmed that the stabilization of the dam is mandated by MDE. The motion to approve AW Landscapes proposal was carried unanimously.
- f. The Board noted the deadline for Board of Directors candidates is Friday, February 10, 2023.
- g. The Board discussed the retaining wall behind 326 New Mark Esplanade, on common area, which has failed and collapsed. The Board has received one (1) proposal from AW Landscapes and has agreed to table the discussion.

## **6. Community Forum 2**

Debbie Mesmer thanked the Board for the deliberation on the covenants and noted that Section 7a & 7c needed additional revisions.

Elyse Hagner commented on the shared driveway discussion and agreed with the issues raised pertaining to the private properties, as snow removal and asphalt paving cannot be done on private property.

Evin Gossin is looking forward to a solution for the dam area.

Horia Popa requested the Board keep the community updated on the landscape suggestions for the dam and requested that the relandscape be a priority.

Madeline Gupta commented that it would be helpful to alert residents of any major changes near their home before the changes are done.

Lori Krug commented that there should have been better notice provided to the residents as well as planning and coordination with all parties involved to expedite the restoration of the area.

Zoey Woods thanked the Board for their sympathetic comments pertaining to the landscape by the dam. Zoey cautioned the Board on the shared documents as the PDFs can be edited, and commented on what is determined as a “reasonable” fine.

Pat Reber inquired if the Board would like another email blast to be sent out regarding the upcoming nomination.

## **7. Board Response to Community Forum 2**

Joe Jordan thanked all the homeowners who have participated in the townhalls and board meetings and confirmed that the reserve fund revisions requested by Debbie Mesmer are part of what the Board will continue to discuss. Joe inquired why Prestige Tree removed so many trees.

Karin Boychyn noted that the monthly meetings are open to all residents to be kept informed on what is going on in the community. Karin highlighted that three (3) board positions are up for election and no applications have been received thus far.

Alex Belida commented that the Board is committed to dredging the lake, but inquired how access will be provided during construction so we do not have to destroy any areas that have been restored.

### **Adjournment**

There being no further business, Alex Belida moved to adjourn the regular meeting and go into Executive Session to discuss a potential legal matter. The motion was seconded by Sam Scheib and carried unanimously. The meeting adjourned at 9:07 p.m.

## Attachment 1: Communications Committee Report by Pat Reber

### Feb 2, 2023: Communications Committee Report to NMC Board

1. We had an all-out effort to reach people about the Town Halls. I believe more than 100 people in all came out, including some who attended both. We used broadcasts, posters at the entryways, website postings and links to Next Door. We had no requests for print outs of the Covenants, and from the depth and detail of the discussions, it seems most people were able to call the documents up on their computers and in fact did read through the documents in great detail!!!
2. We have replaced the Town Hall signs at the entryways with signs for International Dinner on Feb 25. Deadline for sign up is Feb 11 and we will send another notice before then.
3. Now the bad news: we had an unfortunate result of our experiment with hanging the historic posters in the clubhouse.

This is what it looked like when we hung them in early January. We were happy with how it looked.

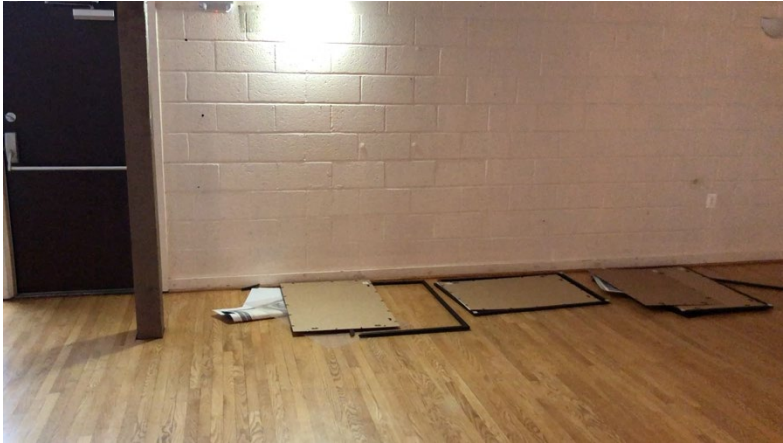


We had used a sticky Velcro system to mount them. We did a test on three and they held for more than a week, after which we proceeded to hang the remaining posters.

Unfortunately, on January 19, Jim discovered that most of them had fallen down after another week. Most of the frames were broken beyond repair but the posters are intact.

Jim said that the problem appeared to be NOT the adhesive on the wall – most of them were still in place on the wall. The problem was that most of the adhesive portions on the back of most of the frames had

come away from the frame and remained velcroed to the wall portion. indicating that the problem was with some of the frames, not the wall.



We are working on a solution. We are doubtful we will find a solution before the International Dinner but are working on it.

It may involve drilling individual fasteners into the cement walls and spending more money to professionally frame the posters so that there are fasteners on the frame to hold wire for hanging. Jim says it would be helpful to have a laser system to know where to put the anchors and is looking into how to get one. Sometime after Feb 12, we will be getting framing cost estimates at Michaels. The current frames, which cost about \$40 each, are of composite material and would now allow drilling to install “eyes’ through which to thread a wire.

Or it may involve installing a gallery style system like this one.

<https://systematicart.com/gallery-museum-commercial-solutions>

This would allow for flexibility in switching out the posters if we wanted to.

Stay tuned, we’ll keep you updated on our progress.

Cheers, Pat Reber  
Chair, Communications