

LANDMARK MEWS COMMUNITY ASSOCIATION MINUTES

Board Meeting July 13, 2005

The July LMCA Board Meeting was called to order at 7:30 P.M. by Board President Lou Wagner at the home of Eve Holtzman. Members present: Virginia Addison, Simon Bennett, Dan Ferezan and Bruce Wood. Officers/Committee Members present: Roger Casalengo, Annie Foster, Karen Kovach, Marty McDonald, Adrian Polk and Carole Trimble. Other homeowners present: Chris Dale, Bill Evans, Tim Foster and Estella Laguna.

1. Visiting Speaker

President Wagner opened the meeting with the introduction of a visiting speaker, Dave McKernan, Deputy Chief of the Fire Prevention Division of the Fairfax County Fire Department. Deputy Chief McKernan accepted an invitation to speak at a Board meeting about fire prevention measures because of concern in the community after a two-alarm fire destroyed the home of Gary and Nancy Bauer, 6265 Masefield Court, on June 6, 2005.

Deputy Chief McKernan, whose unit also has responsibility for investigating the cause of fires, said that the fire at the Bauers' home definitely was caused by a lightening strike. He said the only way to protect structures from fire caused by lightening strikes is to install lightening protection, a significantly expensive measure that is not 100 percent effective. He explained that few residential communities have incurred the expense of installing lightening protection, although most commercial properties do. Those properties are protected by a system of multiple spikes around a roofline that lead to a grounding wire. Deputy Chief McKernan said that while the concern in the community about the risk of fire caused by lightening strikes certainly was understandable, the reality was that the hazard was relatively insignificant – less than a 1 percent chance. "In my opinion," he said, "you can use your money to much better purpose."

According to Deputy Chief McKernan, the largest fire hazard is unattended lit candles. A fire started by an open flame from a candle can engulf a room in two and a half minutes. Other major sources of fire are children, who set fires out of curiosity, and cooking.

The best fire protection measure, he explained, is smoke alarms with battery back-ups in case of an electrical power failure. A sounding alarm will get people out of the house and that is the most important action to take in the case of a fire, the Deputy Chief explained. He urged people at the meeting to immediately exit a building if they smell a burning odor in the house and to call 911 from a cell phone. He offered to make free smoke detectors available if anyone was interested.

Lou commended Deputy Chief McKernan on the fire station's quick response to the Bauer fire and for the outstanding job the firemen had done in protecting and preserving the vast majority of the family's household furnishings and personal possessions. The Deputy Chief explained that in a case like the fire at the Bauer home, when no lives were at stake and the fire had started in the attic, the firemen had time to knock down the fire and take measures to protect the family's possessions.

In response to a question about the number of emergency vehicles that responded to the fire report, Deputy Chief McKernan explained that the Bauer fire was a two-alarm fire that elicited a response from two stations – Fairfax County Unit # 26 on Edsall Road and Alexandria Unit # 58 on Duke Street. According to the Deputy Chief, a unique situation exists in Northern Virginia where local government jurisdictions have negotiated agreements that provide for total coordination among all emergency responders and permit emergency responders to cross jurisdictional lines whenever necessary. He said that the goal of Fairfax County is to ensure a response to every emergency call within five minutes.

That comment prompted a discussion about problems some homeowners have encountered in receiving a prompt response to emergency calls for an ambulance. Deputy Chief McKernan explained that an emergency call from Landmark Mews will get bounced back to Fairfax County if the call reaches a dispatcher for the City of Alexandria first. If no unit from the Fairfax County station on Edsall Road is immediately available, a unit from the Alexandria Duke Street station will respond to the call. The problems that have occurred in receiving a prompt response involve use of a cell phone to dial 911. The current technology in use in Fairfax County does not immediately recognize location when a call is placed from a cell phone as it does if the call comes from a landline, according to the Deputy Chief. That is where confusion can occur if the person making the emergency call is not very clear about the location from which he or she is calling. Deputy Chief McKernan said Fairfax County is in the process of constructing a new communications center with upgraded technology in order to manage a large-scale emergency. When the center is completed, the new technology should help resolve any outstanding problems with prompt responses to emergency calls.

Deputy Chief McKernan thanked the Landmark Mews homeowners for their taxpayer support of the fire department that helps keep the department well equipped with high quality equipment and provides for the best possible training for fire officials. Although the Fairfax County Fire Department does work with a combination of paid staff and volunteers, the Deputy Chief assured everyone that every station in the county is staffed 24 hours a day, seven days a week with paid staff.

2. Minutes

Minutes of the June 1, 2005, meeting were approved unanimously on a motion by Simon Bennett that was seconded by Virginia Addison.

3. Financial Report – See report filed with minutes.

Treasurer Marty McDonald explained a new chart that has been added to the monthly financial report at the request of President Wagner. Expenses have been divided into three categories to make it easier to track expenditures and analyze finances.

- Contract Expenses, representing fixed costs such as management and accounting fees, insurance, records storage, landscape maintenance and trash removal. These expenses account for approximately 49 percent of LMCA's budget for the year.

- Mandatory Supplies and Services, covering the costs of items necessary to the management of the community such as production of the homeowner association packets purchased by new home buyers, office supplies, legal fees, printing and duplicating of information materials, postage, taxes, bank service charges, fees and subscriptions, telephone service, snow removal, electricity, water and other miscellaneous expenses.
- Other Maintenance and Service Costs, including new landscaping projects, infrastructure maintenance and capital improvement projects.

Marty asked the Board for permission to move the monthly telephone bill into the “Contract Expense” portion of the financial records. Dan Ferezan said that would not be a proper accounting of expenditures because the telephone bill is not a fixed monthly expense. There was no further discussion of this suggestion.

Marty also presented an initial draft of a 2006 budget with comparative expenditures going back to 2001 when Marty assumed responsibility for the treasurer’s records. The comparison shows that spending in these years has been higher in some areas than was budgeted, but that expenses have been increasing at a reasonable rate, less than the rate of inflation growth, according to Marty and Lou. Marty reminded the Board that the new budget must be approved by October in order to be presented at the annual homeowners’ meeting. He said that he already knew he needed to change one line in the new budget to accommodate an \$85 increase in trash removal fees. AAA increased the fee to cover increased costs to the company in landfill charges. Marty said that Roger Casalengo concurred that the AAA contract does permit the company to pass along such increased costs. No new budget figures for 2006 had been inserted into the Landscape Maintenance line item, according to Marty, because past practice has been to allocate to that expense line all anticipated income not required to cover anticipated expenses in “Contract Expenses” and “Mandatory Supplies and Services.”

Bruce Wood suggested that perhaps a new budget category was necessary to account for infrastructure repair and maintenance costs that would be drawn in the future from the special reserve fund established with the \$25 increase in homeownership fees that became effective in January 2004. Marty said that whenever any money is spent on capital improvements it must come out of capital reserves. Dan suggested that a fourth budget category be created to show clearly how much money is available to be spent on capital improvement projects. He added that when money is spent on such projects, the expenditure must then be accounted for in the “Other Maintenance and Services” budget category. Dan said he had a new financial chart that he would send to Marty that would resolve this issue. Marty said that he thought the question of both available capital reserves and capital improvement expenditures already were accounted for on the balance sheet.

Simon Bennett asked where interest earned on investment funds of capital reserves was accounted for on the balance sheet. Marty said that currently there is no distinct allocation of the interest earned on the invested dollars of the three capital reserve funds – restricted funds, unrestricted funds and the special major infrastructure repair account. Lou directed the committee working with Marty on financial reporting issues to assist him in determining a way of allocating interest earned among the three reserve funds, if it was practical and made sense.

Marty made the point that in the past, the Board has determined how much money from anticipated annual income would be placed in capital reserves after special projects for the year had been determined and those expenses budgeted. Dan said that if the Board decides the dollar amount to be placed in reserves at the beginning of the fiscal year, that money should be accounted for in "Contract Expenses" as a fixed cost. Marty said that current anticipated income is \$177,600 with 75 percent of those funds required to cover expenses in "Contract Expenses" and Mandatory Supplies and Services", leaving 25 percent of the anticipated income to cover "Other Maintenance and Services" and contributions to capital reserves.

Lou requested that all Board members review the proposed 2006 budget before the August meeting so that more discussion could be conducted then.

Marty brought to the Board's attention that a Virginia law went into effect July 1 that establishes a \$100 maximum as the fee homeowners' association can charge for homeowner association documents for new home buyers. LMCA already is charging \$100 for these packets. According to Marty, the law also provides a formula for calculating the real cost of producing the new homebuyer packets. After some discussion, the Board decided to keep the fee at \$100.

Marty also relayed to the Board the information that a home on Cottingham Place recently was purchased as an investment unit with the new owner intending to rent the property. He urged the Board to act on its authority to review rental leases as a possible means of preventing problems from developing with renters of this property. He suggested that Lou send a letter to the new owner requesting a copy of any lease negotiated with renters. Lou responded that he had no problem sending such a letter, but thought that it would have to be distributed to all homeowners rather than singling out any individual. Tim Foster pointed out that the Board in the past had passed a resolution requiring homeowners to provide the Board with certification that renters had been made familiar with LMCA covenants. Marty then read aloud the governing standard covering property rental issues. (*See report filed with the meeting minutes.*) Tim pointed out the standard does not give the Board authority to approve rental agreements; it simply states that homeowners must provide the Board with copies of rental agreements or certification that renters had been made familiar with association covenants. Roger reminded the Board that a difficult situation had arisen once with a renter who was running a small business, employing three or four people, from a Landmark Mews home. He said it had taken months to resolve the problem. Following a suggestion by Tim, Lou asked Marty to draft a letter to all homeowners reminding them that copies of rental agreements needed to be provided to the Board for review. He also asked that Tim review the draft letter before forwarding it on to Lou and Bruce for final review. Additionally, Lou directed that a reminder about sending leases to the Board be placed in the Mews News and that the letter to homeowners be posted on the web site and included in the future in the homeowners' packet provided to new homebuyers.

Finally, Marty suggested that Board meetings be moved back to the first Wednesday of the month in order to reduce the amount of time that lapses between closing the books at the end of the month and the meeting date. In cases where the meeting date fell on the first day of the month, Marty said the meeting could then be specially scheduled for the second Wednesday. The Board directed Marty to proceed as usual with closing the books at the end of the month and determined that the meeting date would remain as the second Wednesday of the month.

Eve Holtzman moved that the treasurer's report be approved. Simon seconded the motion. The Board approved the report unanimously.

4. Property Manager Report

Among the items reported by Property Manager Roger Casalengo were the following.

- Fountainhead performed maintenance on the LMCA sprinkler system at a cost of \$1,500.
- Tyson's Tree completed stump removal of the remaining Bradford Pear trees that had been cut down in the breezeways.
- Notices that homeowners can take advantage of special rates for trimming trees in front yards will be mailed with homeowner association fee notices and posted on the web site. Roger will then work with Tyson's Tree and individual homeowners who want to participate to coordinate specific costs and work schedules.
- A groundhog family has taken up residence underneath two houses on Chaucer Lane. Roger was working on finding a contractor to capture the animals and relocate them in the wild.
- Dominion Virginia Power has begun work to strengthen the transformers in Landmark Mews. Roger said he was anticipating that the work would create a mess, but that recent efforts to establish a good working relationship with the power company would result in complete restoration and repair of any landscape and infrastructure damage caused by the project.

Roger opened a discussion of the condition of the brick wall surrounding Landmark Mews. He reported that he had consulted with a contractor who warned that maintenance work on the wall, particularly power washing, had to be done with care because the brick and cement caps grow soft over time and can crumble into powder if not treated properly. Roger said that he wants the Board to be actively involved in selecting a contractor for repair and maintenance work on the wall. He stated that the 20-year-old wall needs total restoration and repair because poor maintenance work completed five years ago is causing further damage with failing mortar and rusting rebars. Carole Trimble asked if recommendations for contractors specializing in brick restoration had been obtained from the City of Alexandria as suggested by a Fairfax County engineer who toured Landmark Mews with Board members in April to provide advice on infrastructure repair issues. When Roger replied that no recommendations had been solicited, Carole volunteered to contact the City of Alexandria to see what information could be obtained.

Bruce and Simon said that the wall represents a major infrastructure problem that must be addressed. Tim interjected that he thought some of the problem might be related to the original construction of the wall. Simon asked whether it was worth considering replacing the wall entirely, but the consensus was that replacement would be entirely too costly to even consider. Roger said that a contractor was scheduled to meet with available Board members at 9 a.m. Saturday, July 16, to discuss a proposal for repair of the wall. Despite the current problems, Roger said that the basic structure of the wall is sound. Simon referred to a 2002 engineering study conducted on Landmark Mews infrastructure that indicated the wall had a 30-year plus life expectancy and estimated that it would last for another 17 plus years. He said the 2002 study estimated replacement cost of the wall at \$640,000. Virginia Addison stated that available information was leading to the conclusion that the Board should be searching for experts in brick restoration as a contractor for repair of the wall.

The Board then discussed landscape and infrastructure projects that Roger has broached since the first of the year. Marty said there is not enough money in the “Other Maintenance and Services” budget to cover the cost of all the projects Roger wants to undertake. He said there was a budget of \$30,000 to cover those expenses and that \$10,000 of those funds already have been spent. Lou said that Roger needed to provide the Board with firm estimates for all proposed projects so that the Board could determine which to approve. Three projects in particular were discussed.

- Resolving the drainage problem on the Chaucer View Circle berm probably will cost \$10,000 to \$14,000, according to Roger.
- The 12 electrical junction boxes in Landmark Mews are of 1984 vintage and all need to be upgraded. Roger had no estimate of the cost of that project.
- B. Rushing has provided a proposal to replace plantings around Landmark Mews at a cost of \$7,000. Roger proposed applying to this project the \$4,500 settlement expected from Pulte Homes to resolve issues about plantings in the buffer zone between Landmark Mews and Overlook. He suggested the balance of the cost be funded with LMCA funds. Annie Foster reported that no settlement funds have yet been received from Pulte.

Bruce pointed out that priorities have not been established for any of the projects Roger is proposing and that firm estimates have not been solicited for the drainage and electrical projects. Lou said that Roger has a long list of proposed projects, but no cost estimates for most of them. He directed the special finance committee to work with Roger to assess the proposed projects, determine priorities and establish cost estimates for each. He then asked that a report be e-mailed to Board members prior to the next meeting so that the issue could be discussed then.

5. Covenants Committee

Adrian Polk, Co-Chair of the Covenants Committee, reported on the results of the spring inspections. He said that the number and seriousness of covenants discrepancies were substantially lower than in the previous year and provided a chart detailing the number of discrepancies found in 2005 as compared to 2004. (*Please see report filed with minutes.*) Adrian told the Board that four letters had been sent to homeowners asking for written explanations as to how those homeowners planned to address issues outstanding from 2004 and 2005 inspections. According to Adrian, one homeowner who had received the letter already has resolved the problems. The committee plans to send a certified letter to the other three homeowners reminding them that these matters will be turned over to the Board for action if the problems are not addressed.

Dan asked whether it would not be a better practice if the letters the committee is producing detailing covenants discrepancies that go into new homebuyer packets to provide those letters to realtors in advance and make the real estate agents part of the process for resolving outstanding issues. Adrian said that he thought adopting such a course would be a violation of privacy of the homeowner selling the property. Marty reminded the Board that Virginia law requires LMCA to make reports on a property’s covenants compliance part of the homebuyer packet and that the packet is first provided to the seller. He said that the letters have proven controversial several times in the past few months. Lou dismissed the issue, pointing out that, in the current hot real estate market, most buyers are agreeing to purchase homes “as is”.

6. Zoning Committee

Annie Foster distributed the Zoning Committee report. (*See report filed with the meeting minutes.*) She said that she, Tim and Bruce attended a meeting regarding the redevelopment of Landmark Mall and discovered in the meeting that no jurisdiction is paying much attention to the traffic issues associated with this project. According to Annie, Virginia has no requirements for traffic impact analysis to be part of development plans.

Dan said a check he had conducted yielded the information that the Northern Virginia planning division for VDOT was the correct source to contact regarding this issue. Tim reported that he and Annie had followed up on that suggestion and received the response that the issue was totally within the jurisdiction of the City of Alexandria and the state had no power to intervene. He also reported that Fairfax County is intending to send a letter to Alexandria asking about the traffic implications of this project. Bruce suggested that, since this project will have multi-jurisdictional impact, outreach to the Northern Virginia Transportation Commission might be appropriate. He offered to consult with Tim and Annie about contacting the commission chairman.

7. Other Business

In one other matter discussed briefly by the Board, Bruce reported that he had received no answer to an inquiry to LMCA's outside counsel, Ken Chadwick, asking for clarification regarding Virginia law governing the conduct of homeowner association business between Board meetings. Bruce said that, in his opinion, the Board, or a subcommittee thereof, could properly discuss matters between meetings as long as no policy decisions were made unless in an emergency case. He also recommended that the Board recognize a practice of not permitting members to vote by proxy. The President agreed to this recommendation.

Marty informed the Board that he had received and paid a \$1,500 bill from the law firm for consultation on this issue. Bruce said he would discuss the issue with Marty and the law firm.

Virginia Addison offered to host the August Board meeting. Lou said he would host in September.

8. Executive Session

At approximately 9:30 p.m., Bruce moved that the Board convene in Executive Session in order to consider confidential Covenants Committee matters. Simon seconded the motion. The Board voted unanimously in support of the motion.

The Board reconvened in open session at approximately 10:40 p.m. Lou reported that the Board had considered issues about covenants enforcement with respect to specific homeowners. There were no decisions requiring a Board vote in open session.

Virginia moved to approve the minutes of the Executive Session conducted during the June meeting. Bruce seconded the motion. It was passed unanimously.

Virginia moved to adjourn the meeting at approximately 10:45 p.m. Bruce seconded the motion.

Respectfully submitted,

Carole Trimble
LMCA Secretary