

## LANDMARK MEWS COMMUNITY ASSOCIATION MINUTES

Board Meeting December 9, 2009

The December LMCA board Meeting was held on Wednesday, December 9, at the home of Bruce Wood, 6362 Brampton Court. Members Present: Bruce Wood (President), Loren Scieurba (Vice President), Linda Carter, Bill Gaffney, Joel Kaplan, and Siham Wehbi. Also present were Marty McDonald (Treasurer), Roger Casalengo (Property Manager), Dan Aminoff (member-elect), and Heather McGhee (Secretary). Homeowners present: Simon Bennett, Bill Evans, Bill Menzies, Cathy Clark, Richard Fiske and Chris Dale. Absent: Board member Delia Riso. Bruce convened the meeting at 7:00 p.m.

The minutes of the November 11, 2009 meeting were approved.

**Financial Report** - Marty McDonald distributed the following handouts, filed with minutes:

- CD Investments dtd December 9, 2009
- LMCA Actual Expenses vs Budget, dtd November 30, 2009
- LMCA Balance Sheet as of November 30, 2009
- LMCA Financial Report dtd November 30, 2009
- LMCA Investments and Savings dtd November 30, 2009
- Budget History

Marty stated that there are no new projects and therefore nothing of significance to report since last month. He continued to say that expenditures from Contract Expenses (Bucket 1) are currently at 90.3% of the budget. The significant increase from last month's percentage of 79.6% is due to the \$8,154 insurance payment. The percentage of Expenditures from Mandatory Supplies and Services (Bucket 2) are currently at 96.1% of the budget but he reminded attendees of the additional legal fees that have yet to be paid. For other maintenance and services LMCA is currently at 96.3% of its budget.

Marty continued the financial reported with the CD investments stating that he will purchase another 12 month CD in December with a 1.75% interest rate. In total, LMCA has 4 CD's from ING Direct (3 @ \$25, 000 and the most recently purchased at \$25, 083) totaling \$100, 083 with ING Direct. Three of these CD's pay interest monthly directly in the LMCA savings account at ING Direct, and the 4th accumulates interest in the CD. LMCA also currently has 3 CD's with Alliance Bank (2 @ \$40K and 1 @ \$20K) which total \$100, 000. They are all 5 year CD's and expire 9/15/11. The interest from these CD's are paid directly to LMCA Quarterly at \$5,700 per year.

For the entire year a total of \$28, 565 has been spent on projects with an additional \$24, 083 spent from the restricted reserve that is to fund major infrastructure projects.

Bruce suggests being prudent on any additional expenditure for the rest of the year and to take into account the possibility of funds being needed for snow removal.

**Property Report** - Roger Casalengo reported that has picked up new parking violation notices, and implementation of renewed enforcement will begin in January of 2010. He also said that the cost cited in the snow removal contract has gone down slightly.

Some left over projects from 2009, include the removal of 13 dead or dying trees from the berm, and the river rock replacement for the three alleyways. Roger continued to say that he has received an estimate of \$250 per tree from Valley Crest and that the estimated cost for the river rock project is \$1,200. Another project still to be completed is the cutting back of the branches from an oak tree that have impeded upon a resident's home. The estimated cost to cut back these branches is \$600.

*Bruce moved that the Board approve all projects, with the oak tree trimming being taken care of first, and the rest in 2010. Linda Carter seconded the motion. Approved 6-0, 1 Absent.*

**Covenants Committee Report** - Richard Fiske reported that the fall inspections didn't go as smoothly as the ones in the spring. Mostly because of errors that occurred during the actual inspection and specifically in inspections where he wasn't personally on hand to observe. He stated that a resident requested approval to retain a painted brown front door, in that it has been painted for several years and predating the resident's purchase of the home. He also noted a resident's request to place a carriage light lamppost in the front yard at the end of the driveway. The Board discussed a policy of permitting such lampposts generally throughout the community. There were many concerns cited, including the need to establish a uniform standard and design for all lampposts, and perhaps requiring all residents to have lampposts to ensure a uniform appearance. Yet, even more lampposts, Bruce noted, could appear cluttered with so many dotting a street. Others agreed.

*Loren moved to disapprove amending the architectural standards to permit lampposts. Bill Gaffney seconded the motion. Approved 6-0, 1 Absent.*

**Neighborhood Watch** - Joel Kaplan provided inserts to be published in the Mews News. One discusses the need for residents to place their addresses on their recycling bins, so if they end up being strewn up and down the street it will be easier for neighbors to make sure the bins get back to the proper owner. Another discusses the need for each family to have an emergency evacuation plan.

Joel also announced he will be conducting a lighting survey to discover whose outside lights are on during the day and whose aren't on after dark.

**Parking and Vehicle Restrictions Policy** - Bruce asked Loren Sciorba, Joel Kaplan and Roger Casalengo to report on their evaluation of the Parking and Vehicle Enforcement Policy. Loren noted that the group did not recommend changes in the policy at this time but did recommend enhanced enforcement of visitor and on-street parking restrictions in January 2010. The process will begin with a warning notice for those who are in violation of the policy. Roger believes that once a resident receives a notice it won't get to the next step and there won't be any repeat offenders. If problems persist, penalties will be enforced beginning February 1, 2010. A sandwich board will be displayed notifying residents of the parking rules and regulations prior to

the new policy going into effect. On a related matter, Bruce noted that citations have been printed and are now available for use, authorizing a \$50 charge for violation of the Policy, in addition to existing penalties. Joel has possession of the citations.

**Management Review** - Rees Broome attorneys Kim O'Halloran-Cordray and Courtney Harden discussed LMCA's compliance with the Common Interest Community statutes, including the status of both Marty, as Treasurer, and Roger, as Property Manager. They undertook this review in October at Bruce's request and thereafter delivered a legal opinion to the Board which the Board considered in executive session. The issue is whether Marty and Roger need to be licensed by the state's Common Interest Community Board. The answer depends on whether they provide "management services" and whether those activities are otherwise exempt from the licensing requirement. The attorneys concluded that Marty's and Roger's roles meet the statute's definition of "management services." Although Roger's duties are more akin to those of an "employee," exempting him from the licensure requirement, Marty's duties as an officer responsible for managing the accounts and finances, are covered services subjecting him to licensure. However, it was the Board's decision to not distinguish between Marty and Roger and to require both to obtain a license. That will require completion of a course and passing an exam. The Board will reimburse all expenses.

Bruce also had asked Kim and Courtney to clarify the status of the Board's use of independent contractors, including those who may not be licensed or bonded, or even properly "documented." They concluded that HOA's use of independent contractors was commonplace, fulfilling a community need for labor otherwise considerably more expensive, if available at all for some projects. They also noted that for independent contractors an employing authority is not required by immigration laws to verify immigration status, nor to report immigration violations unless having actual knowledge thereof, They did recommend that all independent contractors execute a document attesting to their independent status which would clarify the intent and understanding of the parties. They also noted with approval the Board's purchase of workers' compensation insurance to cover injuries of anyone deemed to be an employee, including independent contractors who commonly assert employee status following an injury. Not only do courts frequently uphold such claims, subjecting an employing authority to penalties for not having proper coverage, such individual might have a lawsuit for damages against the Association. Kim reported that they currently are representing an Association with precisely this problem.

**Other Business** - Bruce reported on the ongoing matter of the terminated 21 D bus route. He said that he and Noreen Hagerty-Ford met with Supervisor Penny Gross in early November to review options. Those options needed to be refined by the County's transportation staff, and it was agreed to meet again in December.

There being no further business, Bruce moved that the meeting be adjourned, it was seconded by Joel and the meeting was adjourned at 9:03 p.m.

The Board's next meeting will be Wednesday January 13 at Loren Scieurba's home, 6309 Manchester Way, beginning at 7 PM.

Respectfully submitted,

Heather McGhee  
Secretary, LMCA