

CUCKOO'S NEST ASSOCIATION
BOARD OF DIRECTORS MEETING MINUTES
February 13, 2021
Location: 689 Elnor Road

ATTENDANCE

Jim Amrein, Larry Blanks, Kathi Cline, Pat Evans, Paul Rippeth, Denny Smith
1 Resident

Paul called the meeting to order at 9:07 AM. He turned the meeting over to Kathi for the December 2020 and January 2021 Financial Reports.

TREASURER'S REPORT

Kathi reviewed the **December 2020 and January 2021** financial reports.

- December 2020 Balances:
 - Checking \$ 18,863.88
 - Savings \$ 8,198.87
 - Reserve checking \$172,072.36
- December is closed out.

- January 2021 Balances:
 - Checking \$ 56,586.15
 - Savings \$ 8,198.94
 - Reserve checking \$174,495.04

- In the past the Association would have purchased a CD with the additional checking funds; however, since IRA's are only paying 0.22% interest Kathi suggested no new CD's be purchased. The Board agreed.
- There are only 3 CD's remaining. They mature in August 2021, July 2022, and November 2022.
- \$37,625 in dues payments have been received.
- As of this date (2/13/2021), dues for 21 lots are still outstanding.
- Paperwork has been received to renew the contract for our website domain (GoDaddy) for info@cuckoosnestassociation.com. Kathi suggested we renew for one year. The Board was in agreement.
- Payments already received from owners/lessees of boat slips on Piers 1 and 2 have been deposited in the Reserve Checking Account. As payments are received the amount will be notated on the monthly financial reports.

COMMON AREA REPORT

Pat brought up the Spring Cleanup event. The Board decided to set the cleanup for Saturday, May 8, 2021, immediately following the Monthly Board Meeting.

COVENANT VIOLATIONS REPORT

Ongoing.

ACTION ITEMS

No change to the current list.

OLD BUSINESS

Jim and Pat gave an update on the status of the upcoming dock reconstruction.

- Project is scheduled to begin between March 1 – March 15, 2021.
- There has been an increase in the cost of materials since the original prices in July 2020. Jim should have the detailed information later this week. Contract was based on a total project cost of \$120,000. The increased cost of materials now brings the total project cost to \$146,000. Contractor will supply CNA with a breakdown how this affects the square footage price since the original square footage calculations included materials and labor.

- The status of the Authorization Forms received:
 - Pier 1: 1 Form mailed by owner/lessee but not yet received at the CNA PO Box.
 - Pier 2: 1 Form not received. Resident has been in contact with the Board.
 - Larry made a motion to proceed with the reconstruction of the launch pier and pier 1 and proceed with pier 2 pending approval from the outstanding owner/lessee on Pier 2. Jim seconded the motion. The Board voted 6 yes, 0 no, 0 abstain, 3 absent.
 - Still need information on the unassigned slips: 1 on pier 1 and 2 on pier 2.
 - It was decided that the first payment would be made to the contractor as per the contract's draw schedule. A payment of \$14,600 is due on February 20, 2021.

The Board discussed the issues and processes regarding this project. Information learned from the entire process of this project will be used to put procedures in place to facilitate a smoother and more effective implementation for future reconstruction of Piers 3-7.

NEW BUSINESS

Larry thanked the Board and Community for the support he received during the last few months. He added that he is back and ready to assist with whatever is needed.

The dock reconstruction project has unearthed issues and difficulties that have brought the Board to the idea that maybe the Association would be better served with guidance from an HOA Management Firm. The Board will research different firms that have HOA Management Divisions to see what that would mean to the Association and its members. As a beginning to this research, Pat will forward the website information, to the Board, of three firms.

Larry mentioned that once the weather gets warmer he will complete the installation of the firehose around the launch pier in Common Area 2.

OTHER BUSINESS

None

RESIDENT/MEMBER COMMENTS & QUESTIONS

The Board received an email, from a resident, who was unable to attend the meeting due to the inclement weather, who had several questions and concerns regarding the dock reconstruction. The Board discussed these issues and will respond, in writing, to the resident. The resident requested that his concerns and questions be included as part of these Minutes. Those concerns and questions, as well as the Board's responses, are included, as an attachment, with these Minutes.

ADJOURNMENT

At 11:04 AM Paul moved to adjourn the meeting. Larry seconded the Motion. The meeting was adjourned at 11:04 AM.

The next meeting is scheduled for Saturday, March 13, 2021, 9:00 a.m., 689 Elnor Road, Bumpass, VA.

Note: If you are planning on attending a Board Meeting, please confirm that the meeting has not been cancelled or rescheduled, due to weather or unforeseen circumstances, by checking the Cuckoo's Nest Association Website or by calling the Association Secretary at 703-283-1024. Meeting changes should be posted to the website by 8:00 PM the Friday before the meeting.

CNABOD/pie

Attachment

RESIDENT QUESTIONS, COMMENTS, AND CONCERNS SENT, VIA EMAIL, TO THE CNA BOARD FOR THE FEBRUARY 13, 2021, MEETING. BOARD RESPONSES ARE INCLUDED.

To the Board,

I spoke today with Jim and relayed that I had wished to be at the meeting tomorrow but, given the potential weather, I will not risk it. Having had to work today, please excuse my late submission.

We too are sorry you were unable to attend the meeting as we would have appreciated the time to talk this through with you but truly understand staying home; we would not want anyone to risk their safety. We discussed your concerns and will do our best to answer them.

As I said to Jim, I would like for at least some version of my questions and concerns to be included in the meeting minutes and am not opposed to you using my name. While the horse is out of the barn at this point (all by design) I do not feel that my concerns will be adequately addressed but at least I made my feelings known, for whatever it is worth. I may also forward my thoughts and concerns to the community as a whole should you not adequately include them in the meeting minutes.

As you have requested that your concerns be entered in the Minutes we will be forwarding you a copy of the Minutes, before they are published, so that you can review to ensure we captured your concerns adequately.

I want to make it clear that although I will mention money in my arguments, money is not the driving issue for me personally but, it certainly may be so and is so for others. My main point is that ALL of the homeowners have not been totally and completely informed nor were they informed in a complete fashion and timely manner therefore, I feel that there needs to be a pause before moving forward regardless of the outcome even though I agree the docks need to be upgraded and soon. I can hear the gnashing of teeth now.

The Board is and was, as the project began, very aware that the financial obligation, as related to the boat slips, a concern for everyone. The Board worked with many different contractors getting estimates, on two different occasions, to ascertain the best price for the best product. This process first began in February of 2019 and continued through late spring 2020 when the current contractor was chosen.

I have taken an informal poll of my neighbors and know their feelings. Yes, some have sent in their authorization but, after speaking to them, some wish they had not because they were not fully aware of the ramifications and consequences. Jim said only 3 homeowners had not sent in their authorizations, me being 1 of them. I find that hard to believe when *(resident name removed)* is in the hospital and has been for some time and *(resident name removed)* has no clue about the letter and assures me it has not been sent in. That is only 1 homeowner's account. There are others. As for me, I will honor my financial obligation but, I will not be tied down to an authorization that gives my blessing and gives the board carte blanche for expenditures that can run rampant without the FULL knowledge of ALL homeowners. Such an event is occurring now. Will the homeowners be informed and allow tie for comment, agreement or disagreement prior to moving forward? Please respond to ALL homeowners regarding that aspect.

The persons to whom you refer are assigned a boat slip on Pier 4. Owners/lessees assigned slips to Piers 1 and 2 are the only ones who received the letters and Authorization Forms.

Monthly Board Meeting Minutes posted on the website for everyone to read. In addition, the dock reconstruction project was mentioned in three newsletters: Summer/Fall 2019, Winter/Spring 2020, and Summer/Fall 2020. Moreover, all residents/lot owners are encouraged and welcome to attend any Monthly Board Meeting and present any questions or

concerns to the Board. If anyone is unable to attend a Board meeting they are also welcome to voice their concerns/suggestions/comments, to the Board, via the Association's email address (info@CuckoosNestAssociation.com) and/or a formal complaint using the form located on the website. During this approximate 18-month process there were residents/lot owners present at some of the meetings and discussed the project with the Board. Two residents presented their concerns via the formal complaint process to which the Board halted the project until definitive answers could be determined.

Regarding the dock reconstruction, several of the owners/lessees, from Piers 1 and 2 who received their information did reach out to the Board with their questions and concerns. The Board addressed their questions and concerns and have received their Authorization Forms and even advance payment from some.

At the March board meeting, a statement was made that alterations to the original dock would require substantial approval and permits. Why were the homeowners not allowed to comment on this aspect? The board uses our monies for the improvement and maintenance of the association therefore I feel the homeowners should have had a say in the design of the docks. Why at least was this aspect not brought to a vote at the July membership meeting?

Whether at the March meeting or any other meeting, residents/lot owners have the right to voice their comments/opinions/suggestions. In March, the Board was operating under the information that the Cuckoo's Nest Association, would be paying for the total cost of the reconstruction from the Reserve Funds set aside for this and other Association facilities and, since this was not a new project, but a reconstruction due to decay, it did not seem that a residential vote was necessary. The Board was following the recommendation of the Reserve Study for facilities maintenance/repair/replacement.

I have read all of the meeting minutes for 2020 and do understand you want a final result that benefits all. Unfortunately, I am of the opinion that the homeowners have not been kept informed in a timely manner and am dismayed at the tardiness of the information regardless of the explanation you have provided. I feel there are surprises included in the letter that the homeowners were not made aware of - I for one know I was not kept informed. I do not feel all homeowners have had enough time to fully digest the information and end results in regards to the design, exclusion of 1 class of homeowners and resultant costs which were also a surprise. I specifically spoke to Jim in July about the expenditure of the renovation and at that time I was told there would be NO additional cost to the homeowners.

As mentioned above, the Board was acting on the information that piers, swim platforms, and boat slips were all property of the Association and that the Association was financially responsible for the entire structure. At the August 2020 Annual Meeting there was a great deal of discussion regarding the legal responsibility (financial and otherwise) for these parts of the docks. The Board, wanting to be fully aware of the correct information before disseminating any further information to the owners/lessees of the boat slips on Piers 1 and 2 in Common Area 1 took these residents' concerns seriously and voted to obtain the services of an attorney to determine the legal and correct process to move forward with the project.

Plans were approved 27 MAY 2020. Why were these plans not afforded to the homeowners at that time for their comment? Why were they not allowed comment prior to that? At the June 13 meeting, it is stated that final, formal, written approval is being awaited yet the dock plan is stamped 27 MAY 2020? At the July 11 meeting it was stated that the plans Jim submitted have been approved. Why were homeowners not informed at that time? Jim presents a drawing of the new docks at the community meeting but that does not mean all homeowners were in attendance and therefore were not informed. Given the pandemic can you dispute and explain that given that board meeting have been canceled for covid reasons? You have all of the homeowners' email, phone numbers and mail info - why was this information not sent out at that time? Please explain.

Yes. After review of the plans at previous meetings, the Board decided to take the first step which was to submit the plans to Dominion for review. That date of May 27, 2020 is from Dominion. Jim had received verbal information that Dominion had approved the plans but we had not yet received the paperwork in the mail. At this time a contractor still had not been selected. There was still approval needed from Louisa County but the Board didn't want to submit to the County for approval until we had a build date from the contractor.

Yes, it would be wonderful if we could get residents/lot owners to attend a meeting about this, but attendance at any of the meetings, including Annual Meetings, is very slim. And, yes, in hind sight, maybe a letter sent to the owners/lessees, with additional information, should have been sent, in the Spring, to owners/lessees of Piers 1 and 2; however, getting a response from our residents is very difficult and requires constant follow up resulting in constant delays. However, looking ahead, the Board has learned a lot from this project and will put a process in place to individually notify owners/lessees of future dock/pier reconstruction projects at the birth of the project. Still, the project is only as good as the support and cooperation it receives.

As for the cancellation of the January meeting, two of our Board members had a close relative, with whom they had been in contact, who was diagnosed with COVID. Two other Board members, one being our Secretary, at whose home meetings are currently being held, were with them. In order to ensure that no one attending that meeting was put in jeopardy of contracting the virus, we erred on the side of caution. The information was posted on the Home Page of the website. Notification of Monthly Board Meetings has not previously been emailed to residents/lot owners.

The meeting minutes of August 1 state that "the information will be spelled out in letters to those directly affected by the project". It took until a letter dated December 14 for that to happen? Honestly, that is appalling. I did not receive my letter until January 6, 2021 yet authorizations were expected to be returned by 31 December 2020? I find that absolutely appalling regardless of the so-called delay due to a ruling of a lawyer which was not spelled out completely in the meeting minutes nor did it answer the question of waterfront homeowners' responsibilities.

In as much as the Board planned to have the letter sent to owners/lessees of boat slips on Piers 1 and 2 in October, early November at the latest, the delay was due to getting all the information back from the lawyer. As soon as all the information was received, and all our questions had been answered, a letter was created, with much care, to send to the owners/lessees of Piers 1 and 2, the only people directly affected by the current reconstruction. We read and rewrote several times hoping to communicate effectively to the owners/lessees. We apologize if we were not as effective as you were expecting. The letters were mailed, by our Secretary, taken to the Bumpass Post Office the afternoon of December 14, 2020. The rest, unfortunately, was left to the Postal Service.

As for not mentioning the responsibility for waterfront residents/lot owners, we thought that was conveyed in paragraph 3 of the letter.

"Responsibilities, for the docks, are shared by the Association and the owners/lessees of the boat slips. The Association is responsible for the maintenance, repair, and any reconstruction of the main piers and swim platforms. Owners/lessees are responsible for the maintenance, repair, and any reconstruction of the boat slips."

The Association includes waterfront and water access lot owners/residents.

As for the information from the lawyer not being "spelled out", we conveyed, in the Minutes, the information word-for-word as recommended by the lawyer. (November 14, 2020)

I for one DO NOT approve of the design of the docks and, after having spoken to a number of my neighbors, they do not either. Those of you who utilize the docks on weekdays only have no issue with trying to dock your boat in slack water

especially when it is on an outer finger of the piers. Try doing that when wake boats are constantly passing and you have an inner slip like I do and you are positioned next to rocks and a pontoon boat. Currently, I have an open side such that I can safely slide in but, given the new design, I will have to make a straight-line access to my slip with 8 inches of clearance on either side of my modest 19.5-foot bow rider given the new design. This allows me no room for error or adjustment before or after given that I will be in the way of shore line rocks, the adjacent pontoon boat or the 25-foot Sea Ray behind me. That said, the guest slip is nicely positioned with zero obstructions at the end of the pier. Why? Why are homeowners given substandard locations and guests are afforded more "luxurious" accommodations? As the slips are now, they are 12' wide. In the new design they are 11' 3". Were homeowners informed of this alteration in a timely manner and for comment? I think we all know the answer to that. Additionally, who pays for the guest slip(s)?

We regret that you do not approve of the design. We adopted the design after listening to residents/lot owners who attended our meetings and others who, individually, spoke directly to Board members.

The current 12-foot slips have an inside measurement of 10-feet 6-in. The new slips will all have an inside measurement of 11-feet 3-inches. This inside measurement increase was to allow for free-standing lifts as well as accommodate some of the extra width boats.

The Guest Slip on Pier 1 will be paid for with Association funds.

In regards to waterfront homeowners opting out of their share of the expenses, I say show me what your deed says. As for my deed it states: "All parties joining such association or using such facilities will be required to pay reasonable dues as may be assessed by the association for the purpose of maintenance, repair or reconstruction of such facilities." That said, you cannot pick and choose what you do and do not want to pay for given what you own and decide to utilize. The community improvements benefit all and not just some. All pay property taxes to benefit and support schools regardless of whether you chose to have kids or not, whether they go to private a school or not or whether they are grown and moved away. It is for the benefit of all and you cannot opt out of those fees just as you cannot opt out of fees to pay for the new slips as they benefit your property values and the community as a whole!

This has been an ongoing discussion for many years and the reason the Board voted to have all the information reviewed and determined by a lawyer with HOA law experience. As part of his research, he did a title search of documents related to the incorporation and operation of Cuckoo's Nest and the Association. Yes, the statement above applies to all the facilities within the Common Areas except for the boat slips, due to the fact that they are assigned to specific lots/owners by a Lease Agreement. The Lease Agreement makes them the property of the owner/lessee.

Additionally, unless more information is forthcoming, the response printed in the November 14 meeting minutes from the so-called lawyer (of which the board is actively looking for another) is severely lacking in response to this issue. None was given in my opinion in regards to this issue. No legal precedence was proffered nor was there justification for the board to say waterfront owners could opt out. This was also NOT STATED in the letter of December 14, therefore; I am certain that not all homeowners are aware that they are unduly shouldering an unfair burden of the total cost. Given that a number of homes are for sale in the community, are those potential homeowners being made aware of their unintended additional expenditure?

The information from the lawyer was addressed above; we followed his advice.

The reason the Board is reviewing retaining a different lawyer is because the Board is researching a firm that may, eventually, manage the Association; the current lawyer does not have a Property Management Division.

Waterfront residents/lot owners are not opting out; they don't have rights to the slips. They do have rights and responsibility for the center walkway of the piers, swim platforms, launch ramps, launch piers, and all the other facilities related to the Common Areas, but not the boat slips.

In summary, while I am NOT opposed to reconstructing the docks, nor am I opposed to paying my FAIR share of the expenses, I do balk at the manner in which this process had been put forth and feel that until ALL homeowners have had a say in the matter and are fully informed of ALL aspects, this project needs to be reconsidered.

We regret your disappointment at the processes taken; however, this was an entirely new avenue for the Board and a great learning experience. Any mistakes that may have been made we will use to create hopefully smoother, more communicative, and successful projects in the future.

Unfortunately as I will not be present at the meeting due to weather and due to an earlier board meeting being called off, I am sure this will not receive the full force it was intended. That said, I may find another avenue to inform residents should it not be included in the meeting minutes or be disseminated to ALL homeowners.

To summarize:

The Board never intended to mislead or miscommunicate any information to any of the owners/lessees of Piers 1 and 2, those directly affected by the project. We apologize if our efforts have not met your expectations. As for notifying ALL residents the Board notified the detailed information only to those directly affected by this project. All homeowners were notified of the intent to replace the common area docks via the CNA newsletter which is emailed or mailed via USPS to every lot owner.

Dock plans were formally presented at the Annual Meeting. Any concerns or comments could have been addressed and discussed at that meeting.

As stated previously, this was quite a learning experience and an extremely difficult process to which members of the Board have spent countless hours working toward a successful completion of new docks/piers for the Association and new slips for the slip owners/lessees.

Submitted 12 February 2021 by James Castle - lot 166.