

Lake View Park Annual Homeowner's meeting Meeting minutes
Monday October 19th 2015, 7:00 pm

Agenda

- Approval of prior meeting minute
- Committee reports
- Election of commissioners for 2016
- New Business

Meeting was called to order at 7:05. There were 97 owners in attendance.

Approval of prior meeting minutes

- Copies of the 2014 meeting minutes were distributed to all attendees
- Greg Moser motioned that the 2014 minutes should be approved without change. Motion was seconded by Taveta Grant. No discussion was requested from the floor. By voice vote the minutes were approved. There were no dissents.

Committee reports

- Treasurer - Barbara Hart
 - Copies of the LVP P&L, Balance Sheet, and a list of unpaid assessments were distributed to all attendees
 - Barbara reported that our Income & Expenses are both well managed and that we expect to end the year with approximately \$120K on hand vs. ~\$90K (YE 2014) and ~\$44K (YE 2013).
 - We are making an effort to collect past due assessments and announced a new collections policy in the newsletter which we are in the process of putting in place.
 - Questions: Do we take liens on homeowners who are not paying their dues? Yes, we have done it in the past, but the lien process is not working well. We are expecting to contract with a legal firm specializing in collections. All legal costs will be borne by the delinquent homeowner.
- Fishing & Boating - Gary Ross
 - Gary reports that we are dealing with a lot of deferred dam issues. Major accomplishments for 2015 include:
 - Updated the Beaver Lake Emergency Action Plan. The EAP details the procedures to be followed during any type of emergency involving the dam. It includes a complete list of residents and businesses which could be impacted by a dam failure.
 - Billy & Gary did depth surveys of the lake in June. It appears the depth is unchanged since last year which allows us to delay plans for dredging the lake until spring 2016 at earliest.
 - We purchased 150 sterile grass carp in April to help clear the lake of invasive grass and weeds. We think it is working well and the grass seems more under control than last year.
 - We hired an independent dam inspector, Terracon and engineer Russell Bendel completed the inspection in early 2015

- We have an ongoing project regarding removal of trees on the dam. We are still in the process of securing approvals from the state DENR.
- The NC DENR is asking questions about the adequacy of the spillway below the dam. Terracon is working with the DENR to provide additional information and to determine next steps. DENR has also requested that for an inspection of the 5 foot drain pipe and we have contracted Terracon to conduct the inspection.
- Per recommendations from the state and our independent inspector, Billy has been working hard to clear the brush and small trees from the dam area.
- Russell Bendel has suggested that LVP should build a stockpile of cash in the \$200k range to support major dam repair when it becomes necessary.
- Fishing & Boating fees have produced approximately \$25,000 in income for 2015.
- Gary recognized Billy and asked him to stand. Members in attendance gave Billy a huge round of applause. Gary thanked Billy for his continued hard work and especially for his cleanup of the downslope of the dam. Gary stated that Billy would be a hard man to replace.
- Questions:
 - Do we have the funds available to conduct the dredging when it becomes necessary? Answer (Mike Nery) the cost is dependent on the scope of work we define but yes, the cost for dredging is built into our operating budget.
 - If we have a rain event like South Carolina just had – how will we fare? Answer (from Gary) Our target is to handle a 25 in rain event in 24 hours. State and Terracon are assessing the topic and it's getting a lot of attention after what just happened in South Carolina.
 - How's the fishing? Answer: Good.
 - Are homeowners responsible if our insurance liability was insufficient? Answer: yes. Gary explained how the automated warning system is activated and how the EAP helps ensure a rapid response to any dam emergency.
 - Do we, or could we, survey the number and species of fish being caught by fisherman in the lake? Answer: we don't; but it's a good idea to consider.
 - Do we lose grass carp when we dredge? We don't think so.
 - Has the city communicated the timing of sidewalk extension on Lakeview road? Answer: No.
- Grounds – (Mike Nery for Kevin Saum)
 - Mike also thanked Billy for all his hard work to maintain our common grounds.
 - Parkways are looking better year by year
 - Kevin has worked on some Eagle Scout projects (new boat racks, etc) and there will be a new one October 31 at 11am. The new project will install bird houses around the lake and is being conducted by Christopher Moser.
 - Kevin is looking for suggestions and ways that we can improve what can be done with our common grounds. We are looking for ways that we can use the lake in better ways for the benefit of the community.
 - Questions: Could we have a dog park at the lake? Maybe in the area near the old swimming pool? Why is it that there is no parking there? Answer from floor: sometime around 1995 there was a lot of problems in that area (youths, drinking, litter, etc). A petition was raised and signed by 200 people to close that area to parking.

- How many signatures would it take to get no-parking signs on Midland? Answer: Gary & Kevin have been working to get that area changed to no-parking for some time.

Chairman - Mike Nery

- Obviously the dam is a huge priority for the community. Insurance for a very long time was too low at \$200k. We've raised it to \$6M. We've updated the EAP. Gary and Brendan spent days knocking on doors downstream of the dam to get contact information. We've hired an independent inspector and are acting on their recommendations.
- We've worked on planning and budgeting for the next dredge. It will have to be done some day.
- Now for the South Trail status:
 - In 1995 temporary permission was given to allow some residents on the south side of the lake to put up fences to block non-resident access to the common areas on the south side of the lake. Ever since then residents have been asking to have those fences taken down. Different commissions over several years held voice votes at the annual meetings, all of which were overwhelmingly in favor of doing this.
 - In 2015 we held a formal written vote on the topic. An overwhelming majority of homeowners (83%) voted in favor of a proposal to build a walking trail on the south side of the lake.
 - The commission reviewed all the comments and especially all the comments of the "No" votes to see if any comments were compelling enough to nullify the overwhelming majority.
 - We again reviewed with our attorney the issues raised by some nearby homeowners during our meetings with them over the last two years.
 - Only after all these steps were taken was a decision made to remove the fences
 - Following that decision some, but not all, homeowners with land abutting the common areas on the south side of the lake sued LVPC Inc. as well as all current and several past commissioners individually.
 - We won the case decisively when Judge Pope dismissed the complaint. All or some of the litigants are appealing.
- Mike requested additional comments from our attorney Bob Deutsch. Bob added the following points:
 - The lawsuit seeks not only to address the issue of the trail - it challenges the legitimacy of the governing organization (the Lake View Park Commission). This is really the more dangerous issue facing the community. All of our legal relationships could be called into question (Audubon society, MSD, NC DENR, etc).
 - If all of us lose our legal rights to have a functioning home owner's association our property rights could be lost.
 - The theory that the LVPC organization is invalid is very technical and is based on issues which occurred over 20 years ago.
 - Our commissioners are volunteers. As a community we need to protect them - or else no one would agree to serve. This is the primary reason a corporation such as LVPC was formed. Clearly, if we can't get great people to run the neighborhood we are in real danger of losing the best neighborhood in Asheville.

Questions:

- Thank you for removing the fences. I walk my dog around the lake frequently. I would like to know who ripped up the path. Answer (Mike): We haven't done any work to improve the trail yet. We got a report that someone was digging at night along the trail. Billy and Gary investigated and put down straw and seed to repair some of the damage.
- Would it be possible to explain why no work has been done? Are we under an injunction? Answer (Mike): There is no injunction. But we've had to pay about \$9,000 in legal and permitting fees, mostly related to the lawsuit. At this point we are looking at what options make sense while Judge Pope's decision is under appeal:
 - Build the trail as we planned
 - Do something minor pending an outcome
 - Do nothing

We are open to ideas and clearly we don't want to waste the community's resources.

- Do we have a timeline for the appeal? Answer (Bob): Court of Appeals should rule within a year. If we get reversed; then we'll have to have a trial, depositions, appeals, etc and this could take years.
- Mike: we remain hopeful that we can work something out to end the lawsuit.
- Can't we just put up signs that say "this path is restricted to residents only"? Why can't we charge a fee as we do for fishing and boating?
- Do we need to build a fund to prosecute this lawsuit? Answer (Mike): No, we think no special funding is required.
- Is there anything else we can do to protect the community? Answer (Bob): there is a statute called 47F – planned community act; If you live in an organized area and contribute funding to maintain common grounds then you are a planned community. If we are reversed on appeal we may have to bring a vote to organize the community under that act.
- What is our liability if someone has an accident in front of one of those homes? Answer (Bob): Unless it was because of something we did we have no liability issues. If someone tampers with the trail the liability would be with them.
- Can't the privacy and security concerns of these neighbors be addressed by a fence or privacy screen? Isn't that what most people do?
- Why can't we control access to the trail? I don't want hoodlums wandering around. Answer: (Mike) The old gated system did not work well. Most residents felt excluded from being able to access the trail.
- Why can't we close all of Lake View Park to non-residents? Just put up "Private Property – no trespassing" signs on common grounds, just like the Golf Course has done?
- Do we really need an expensive lawsuit to address the issue? If everybody has the best intentions we should be able to sit down and negotiate something. Do we really need a legal battle? Answer (Mike): We have offered to address the issue through mediation but the opposing side refused. We would very much prefer to avoid the cost associated with a lawsuit.

Election of Commissioners for 2016

- The existing slate of commissioners have volunteered to serve for another year
- No other nominations were received in advance of the meeting
- Mike requests nominations from the floor. There were none.
- Greg Moser motions to close the nominations. Jones Byrd seconds.

- Mike asks for a vote to elect the commissioners for 2016. By voice vote the commissioners for 2016 were approved. There were no dissents.

New Business

- Walt McGuire makes a motion to ask the LVP Commissioners to research ways to allow all LVP residents to walk the trail, but to restrict or control non-resident access to those whom we would license (for a fee). There was no second. Motion failed.
- Linda ? on Beaver Point Park asks what can be done to control the parking situation on Beaver Point Park road? People are parking on front lawns and on the cul-de-sac. Answer (Mike): We can try to control parking on the common ground (cul-de-sac) by placing some boulders. We will investigate.

Laurie Williams motions to adjourn the formal meeting. Taveta Grant seconds. By voice vote the meeting is adjourned at 8:35pm. There were no dissents.

Keith Pandres, Secretary