

MOODY POINT COMMUNITY ASSOCIATION

Minutes of the Annual Meeting September 12^h, 2009

The Annual Meeting of the Moody Point Community Association (MPCA) was held at the Newmarket Town Hall, Newmarket, NH on Saturday, September 12^h, 2009. Jim Fitzpatrick, President of the MPCA, chaired the meeting.

The meeting was called to order at 9:03 AM by Jim Fitzpatrick.

Announcements

Copies of the Agenda, Minutes, Budget, the Quarterly Financial Statements and written Committee Annual Reports were available at the sign in table.

The meeting would be run based on Sturgis's "Standard Code of Parliamentary Procedure".

Agenda

1. Role Call and Verification of Quorum: It was certified that there was a quorum present by Russ Simon, MPCA Secretary and Wendy Chase, representative of Great North, the MPCA's Management Company. At the opening of the meeting Fifty-Three of the Ninety-Three voting members were present either in person or via validated proxy. Twenty-Four members constituted a quorum. Note: By 9:30 AM Sixty-Three voting members were present either in person or via validated proxy.
2. Proof of Notice of Meeting: A motion was made and seconded to verify proper notice of the Annual Meeting was provided to all members as per the By-Laws. The motion passed unanimously by acclamation.
3. Approval of the Minutes of the MPCA Annual Meeting on 9/6/08: A motion was made and seconded to waive the reading of the Annual Meeting Minutes and approve as written. The motion passed unanimously by acclamation.
4. President's Report: presented by Jim Fitzpatrick
 - All 2008-2009 MPCA Board Members were recognized and thanked for their contributions during the year. Three current Board members will be retiring from the Board this year: Jim Fitzpatrick – Member-At-Large and MPCA President, Russ Simon – Waterfront Representative and MPCA Secretary and Dave Contarino –

Lubberland Representative. Wendy Chase, our Property Manager from Great North was also thanked.

- A special thanks and recognition was given to all the volunteers the MPCA depends on, from Committee Members to Project Volunteers to the unseen volunteers who make things happen, like Lyn Rodger who manages the MPCA Website and Andra Crawford who keeps our Member Telephone Directory up to date.
- The year was characterized by many achievements and continued growing MPCA member involvement not only within the MPCA Community (Committees, volunteer work parties and community events, including the new MPCA Golf Tournament), but also in larger community of Newmarket and beyond (serving on various Town Boards and Committees, LACA support, helping to maintain Newmarket's gardens, our many docents, etc., etc.). A growing record of involvement we can be proud of.
- Introduction of Committee Reports

5. Water Systems Committee Report: presented by Bruce Johnson supported by various Committee Members

- WSC Members were recognized and thanked.
- The major 2008/2009 Accomplishments included:
 - Repair of major leaks
 - Installation and successful completion of the Cistern Project – major kudos to Peter Roy for his leadership and management of this key Community Project.
 - Installation of the Lift Station Road
 - And the evaluation of the Fire Pond concluded that it was still fully functional and no major remediation was required.
- Goals 2009/2010 are:
 - Refurbish Well #3
 - Continue manhole repair program, coordinated with the Town
 - Clean/Refurbish high pressure tank
 - Find and Fix sewer inflow problem
 - Replace Lift Station Pump #2

6. Community Life Committee Report: presented by Lynn Badger, chairperson

- The CLC members were recognized and thanked, as well as the many volunteers and hosts of various events.
- CLC initiated and ran numerous programs and events during the year to enrich our community life and provide opportunities for members to meet together. Programs included: Timely Topics, Quarterly Community Get-Togethers , Screenhouse Fridays and their extension

into the winter months, maintaining and updating the member packet for new members and the Community Address List, updating the Screenhouse Policy to enhance use, maintaining and enhancing the website and helping to organize various volunteer and Community activities.

- The MPCA Communitywide Emails function was transferred to CLC from the MPCA President
- CLC also recognized Jim Fitzpatrick, retiring MPCA President and Russ Simon, retiring MPCA Secretary for their many years of dedicated service to the Community. Gifts of two books were given to Jim on Sailing and New England Maps and History and Russ was given a personalized Chef's Apron and balloon.

7. Environmental Committee Report: presented by Trish Simon, chairperson

- EC Members and Project Volunteers were recognized.
- A Written report was distributed.
- A recognition that the large volunteer workforce of the EC not only improved the quality of our common buildings and grounds but also benefitted the MPCA with significant cost savings.
- And a special thank you to Peg Goddard for many contributions to the EC during her many years of dedicated service.

8. Drainage Subcommittee Report: presented by Russ Simon

- **Where we were at last years annual meeting?**
 - DES had finally issued an Administrative Order to fix the drainage at Moody Point.
 - Cheney then filed an Appeal of the Administrative Order to the State's Water Council.
 - The MPCA Board voted to file as an Intervenor (a separate party of Interest) in the Appeal to ensure our voice was heard.
- **What's happened over the past year?**
 - The MPCA filed as an Intervenor to the Water Council.
 - Prior to our request to be approved as an Intervenor was heard, Cheney negotiated a stay of his own appeal with the AG's office allowing him to try to get building permits approved on his Moody Point Wetlands lots with DES.
 - The MPCA and many of its members were outraged at the issuance of the stay and voiced its objections at all levels of Government in NH.
 - The stay remained in effect; the wetlands building permits were applied for by Cheney and then DES issued their decision to deny the

wetlands building permits. During this time, Pat & Bruce Gardner – an MPCA member whose home abuts Osprey Circle and was damaged due to the lack of appropriate drainage also filed to be approved as a separate Intervenor.

- The stay was then lifted.
- The Water Council then approved both the MPCA and the Gardner's as Intervenor and scheduled a pre-hearing conference on the Cheney Appeal. Cheney also filed an Appeal of DES's decision to deny him building permits on his wetlands lots.
- Before the pre-hearing conference could be held, Cheney filed a new brief to have the Administrative Order voided and dismissed. The MPCA, the AG's Office – representing DES and the Gardner's all filed responses to Cheney's request to dismiss the AO.
- The Water Council then denied Cheney's request to dismiss the AO and we are now awaiting a new date for the pre-hearing conference to be scheduled on the original Cheney Appeal of the AO.
- Cheney has also submitted a new request to DES to demonstrate to them that he can build on the non-wetlands portions of his wetlands lots without disturbing the wetlands. If he can prove this, then DES would no longer have jurisdiction over the issuance of building permits. This request is still pending with DES.

○ **Where are we today?**

- We are waiting for the scheduling of the pre-hearing conference.

○ **Where are we going?**

- Attend the pre-hearing conference on the Appeal, once scheduled. We expect the pre-hearing conference to be scheduled in the next month or so.
- Once this is completed, a hearing date should be scheduled – probably in early 2010. During this time there may be some attempt by the Water Council to see if the parties can agree to a settlement prior to the formal hearing of the Appeal at the Water Council.
- If no settlement can be reached, the Water Council will hear and decide on the Appeal.

9. Lot #13 Litigation presented by Jim Fitzpatrick

- As a result of Cheney's application to the Newmarket Planning Board to subdivide Lot #13 and the subsequent decision of the Planning Board to deny the application based on its review of the Moody Point Development's Documentation and Conditions of Approval, the MPCA Board reviewed all the documentation and did its own research into the history of Lot #13.

- The MPCA Board's conclusion was that it appeared that Lot #13 was approved as "non-buildable, open space" that should have been deeded to the MPCA as common land consistent with the turnover of Lot #4 and Lot #11 to the MPCA. Instead, the Moody Point Company deeded this land to Cheney.
- Based on our conclusions and the review of counsel, the Board approved an action to be taken by the MPCA to petition the Court to make a declaratory judgment on the ownership of Lot #13 and find that the MPCA is the rightful owner of Lot #13.
- The Court has agreed to hear our petition and has postponed Cheney's appeal of the Planning Board's decision until the ownership of Lot #13 has been determined.
- We are awaiting the next steps to be defined by the Court.

10. Presentation of the Budget: presented by Don MacKinnon, Treasurer

- The 2008-2009 Fiscal Year-End results were reviewed with the membership. Overall operating expenses exceeded budget by about \$17,500/14%. The additional expenses were funded from prior years Operating surpluses and were a primarily a result of additional expenses to repair and maintain the Water and Sewer Systems and legal expenses for the new Lot #13 litigation
- The 2009-2010 Operating and Capital Budget was presented. The proposed Operating Budget, including Water Systems is \$167,400, lower by \$1,000 from prior year's budget. The Budgeted Capital Reserve increase of \$40,000 is the same as last year's. The Capital Reserve Budgeted expense is \$19,000, including the costs of three planned Water System's projects.
- Annual Member fees will remain virtually the same as last year with \$1,889 (\$1 increase) for water users and be up slightly to \$1,339 (\$50/3.9%) for non-water users.
- A motion was made by Don MacKinnon, seconded by Lynn Badger to approve the Operating and Capital Budget as presented. The vote was unanimous in favor of approving the Budget as presented.

11. Election of Directors:

- An election was required for a new Member-At-Large to replace the retiring Jim Fitzpatrick.
- Nominations were open to the floor and Lynn Badger nominated Pat Gardner. The motion was seconded by Beth Marsh. No other nominations were made.
- The motion to elect Pat Gardner for the position of Member-At-Large was unanimously approved by voice vote.

12. Old Business

- None

13. New Business

- Denny Grubbs wanted to inform the membership that in addition to the MPCA's lawsuit on determining the ownership of Lot #13, Cheney was taking legal action against two of the Lubberland residents related to Lot #13.

A motion was made to adjourn the annual meeting and the meeting was officially adjourned at 11:03 AM by Jim Fitzpatrick.

Respectfully Submitted,

Russ Simon
MPCA Secretary