

MINUTES OF THE BOARD OF DIRECTORS REGULAR MEETING OTTER POND
HOMEOWNERS ASSOCIATION, INC.
June 27, 2023

Present: Kristie Sanchez, Christina Files, Mindy Clagett

Guests: Jack McKelvy, Tim Heavers, Becky Waugh, David Beard, David White, Janene Beard

Call to Order 3:02 pm

Minutes from the May meeting approved.

COMMITTEE REPORTS:

ARB: 2 new forms approved. Some non-compliance addresses reported.

SOCIAL: No committee, but two potential summer events upcoming, pending volunteer participation.

NEIGHBORHOOD WATCH: Sent an email reporting an incident, with a suggestion to remove identifying information from mail before discarding.

POND: Valerie is in communication with the CSU extension office, waiting to hear their recommendations on both a chemical and non-chemical approach to planning the future health of our pond.

FINANCIAL:

Provided by Tim. It was noted that the HOA has received and paid a bill from Craig Ullman reflecting costs associated with Craig's time answering questions from a homeowner in Otter Pond.

The Reserve Study Committee brought information for the board. This committee will determine which assets qualify for reserve fund maintenance. Each member of the study committee is taking an asset of our neighborhood to research. Then the committee will consolidate conclusions and make recommendations to the board. These include data on the life expectancy of our assets, the repair/replacement costs, and adjustments for inflation. A budget for reserve fund goals will reflect their careful research.

The reserve study needs to be reviewed more frequently, and the board approves the ongoing maintenance of this newly formed committee, to be headed by Dave Beard.

Settling the query of whether all of our drains are our HOA responsibility may add those to the reserve study, as well.

Note that not every anticipated cost needs to be fully funded by the reserve study, but threshold percentage funding will be determined to relieve the higher costs. Some of our community maintenance will not fall under the reserve classification, but under "Operational" or "Long-Term" expenses.

DAM TIMELINE UPDATE:

3 Homeowners have requested a timeline revision to delay the draining of the pond until March.

The City has confirmed that they can proceed with moving their utilities in Nov/Dec without lowering the pond further.

There will not be a coffer dam built. In order to meet regulations, a coffer dam would cost us an additional \$50-\$70K.

There are pros and cons to moving the entire dam rebuild from Jan-March to March-May. Ongoing discussions with our dam engineer, the impact to the contractor we hire, and the State of Colorado Dam Safety team. No final decisions made at this time.

There is a new contract from Craig Ullman for oversight of the rebuilding process.

We are close to having the plans and specs submitted to the state. Once the plans have been submitted, we can go out for a Request For Proposal (RFP), start getting bids from contractors and have a better understanding of our costs. Estimated cost conclusions possible by August.

3 Homeowners have requested a reconsideration of the board's previously evaluated and discarded option of the city's Special Improvement District program (SID). Following this request, there have been additional meetings with 3 city officials, which reiterated that we are not considered a public infrastructure, which would be a hurdle.

The second challenge clarified being that the SID would be a loan, which upon granting would have the city filing a **lien against every property in the neighborhood** until the loan is paid in full. The loan would be paid through the County Assessor on property taxes for as many years as the loan is determined to be. The city attorney said, that though we may get the SID loan approved by City Council, **they would then have authority to take control of the rebuild and everything that goes on with the pond. They could determine that the pond and dam are public for general use.** He recommends thinking very carefully before taking that path.

Unofficial conversations with judicial members also advised that **these loans with HOA's very often lead to complicated lawsuits.** (Especially related to the liens.). They do not recommend the SID for us.

Kristie had new discussions with Alpine Bank following the financial poll of our fellow homeowners. Current interest rate for an unsecured HOA loan is 8.45%.

We only had 11 homeowners indicate a desire for the loan. If Alpine Bank does an HOA loan, **all properties in Otter Pond would be put under a lien by the bank**, because the loan is being taken by the HOA collectively. The bank recommended that we not pursue this loan for 11 homeowners, but that those individuals seek their own financing, which Alpine Bank could assist with, and would likely come at a lower interest rate.

NEW BUSINESS:

Ditches/Pipes/Pond Volume are being voluntarily monitored by Tadd. We are still under restrictions to keep our water at the state regulated level. Our water is turned off and on to balance the field run off and water levels. Kristie has called the state to ask for any suggestions to help with this.

Q: Did Tadd ask us to let him know if we see water levels rise in the marina?

Yes. If anyone sees water flow increasing, please let Tadd know so he can continue with this essential balance on behalf of us all.

We have had a homeowner file complaints of landscaping neglect on 3 other homeowners and some open space areas. Resolution being pursued.

Becky raised concerns about the midges in the neighborhood and wonders if the problem is attributable to the condition of the pond. *Will the restoration of the pond include proactive midge mitigation?*

As previously mentioned in this meeting, our pond committee is engaging in pond health care plans to be included with the refilling next year. Midges have always been a part of that consideration.

Becky is willing to participate with the pond committee in seeking good solutions.

Janene brought questions re: the legal counsel from our lawyer, Mindi Connerly. *Did she pull up minutes from old city council meetings? Plats?*

She pulled up all plats and original documents from the establishment of the neighborhood.

She said that, based on all of her information, **we have no legal recourse with the developer, nor the city, and that our HOA liability is of major concern if the dam would breach and flood the properties downstream.**

Mindi advised that we should go to the insurance company and review our liability policy.

Krisitie did, and confirmed we do not have coverage for our dam rebuild, but she did increase our umbrella policy limits for our financial protection if our dam did flood.

David W. is still concerned that the financial responsibility for our dam rebuild should rest with the City of Montrose. Having already invested time into researching the history of our pond and legal precedent, he is committed to personally discovering any pertinent information he can, and will share any useful findings with the board.

Meeting adjourned at 4:33 pm

Next Meeting Tuesday, July 18, 3:00 pm at 1830 Otter Pond Cir.

Minutes submitted by Mindy Clagett, HOA Secretary.