

**APPLE CANYON LAKE PROPERTY OWNERS' ASSOCIATION  
BOARD OF DIRECTORS MEETING  
MAY 18, 2013**

**APPROVED**

**2.0 Call to Order** – President Kevin Kavanaugh called the regular monthly meeting of the Apple Canyon Lake Property Owners Association (ACLPOA) to order at 1:00 p.m. at the Apple Canyon Lake Clubhouse, Saturday, May 18, 2013.

**3.0 Pledge of Allegiance** – After the Pledge of Allegiance, a quorum was present with the following directors in attendance: Mr. Bob Ballenger, Ms. Marge Clark, Mr. Josh Cocagne, Mr. Kevin Kavanaugh, Mr. Chuck Larsen, Ms. Debra McNamee, Mr. Duane Suits, and Mr. Erin Winter. Mr. Rick Paulson was absent. General Manager Paula Lange and Recording Secretary Kande Haertel were also in attendance.

President Kavanaugh requested additions to the agenda: 11.11 Fairway Markers for the Golf Course and 11.12 Replacement Hole Flags for the Golf Course. Marge Clark moved, with a second by Bob Ballenger, to add these items to the agenda. The motion carried unanimously.

**4.0 Record/Adopt April 20, 2013 BOD Minutes** – Bob Ballenger moved, Erin Winter seconded, to “Adopt the April 20, 2013 Minutes as presented.” The motion carried unanimously.

**5.0 Treasurer’s Report** – Duane Suits gave his report for the month of May, 2013. The preliminary audit was received last Thursday. Duane commented regarding differences shown in the preliminary audit, which primarily resulted due to changes in the practices of moving dollars from the General Fund to the R&R fund and capital projects, which are required by CICAA. This month there is revenue in the R&R fund for the entire year as well as revenue for capital project for the pool. The note payable on the pool is currently a construction note, which was paid as soon as assessment revenues were available in order to save several months interest. Marge Clark motioned and Deb McNamee seconded, to “Accept the May, 2013, Treasurer’s Report as presented.” The motion passed unanimously.

**6.0 Committee Reports**

**AECC** – Bob Ballenger was unable to attend the last meeting. Brian Hartlep reported that the committee had conversation on codes. Two projects were approved with variances.

**Budget** – Duane Suits reported that the strategy meeting was held on May 4, 2013. June 22, 2013, at 9:00am, (location is still to be determined), will be the second 2014 budget meeting. Property owners are urged to attend.

**Campground** – Chuck Larsen reminded everyone that the annual campground pancake breakfast is May 26, 2013.

**Long Range Planning** – Chuck Larsen reported that the survey is in *The Apple Core* and urged everyone who paid an OARF fee to respond. This survey will be the basis for the updated Master Plan for ACL. Paula Lange noted that the survey is also on the website and will be emailed to those who have their email addresses on file with the office next week.

**Dam Advisory** – Chuck Larsen stated that the committee is recommending evaluating the options for increasing spillway capacity to the current standard of .6 of the Probable Maximum Flood (PMF). It is estimated this work will cost about \$60,000. If \$20,000 is budgeted each year for three years, the work could be done in 2016. The condition of the outlet pipe that runs for 290 feet under the dam to the valve at the downstream side of the dam should also be evaluated. It is over 40 years old and has not been inspected. We need to determine the condition of the welds and check for any corrosion that may be occurring. Although there is no indication of any leaks now, it would be better to fix any developing problems before they become more serious. The cost is estimated at about \$25,000. This could be budgeted over two years (\$10,000 the first year and \$15,000 the next year) and the work could then be done in 2015.

**Legal** – Marge Clark stated the committee has not met.

**Rules & Regulations** – Josh Cocagne had no report.

**Trails** – Deb McNamee reported that Mike Harris is the new committee chairman. There is a clean-up scheduled for June 1, 2013, with work beginning at 9:00 a.m. and probably working until 1:00 p.m. The group will meet at the marina building. Participants are requested to bring their own gloves as well as a pair of loppers, if possible.

**Conservation** – Erin Winter reported from the Minutes of the May 4, 2013 meeting that the IEPA would grant ACL Tier 3 lake monitoring status again, which means the IEPA provides the equipment and does all the lab work for this important program. ACL is one of only 15 lakes in the entire state that receive this level of monitoring. The goose patrol reports there were very few nests, we may have been too early with the cool spring. The annual cleanup had 5 people participate, including one who brought a boat, which was very helpful. These volunteers removed lot of trash from the trails, including 4 tires and a wading pool! Mike Malon and Brian Hartlep will be contacting the IDNR regarding fish shocking.

**7.0 President's Report** – President Kavanaugh stated that this would be his last report as President of the Board. He thanked fellow Board members for the past two years as well as all of the volunteers and committee chairs. He continues to be concerned about erosion of the lake caused by wakes and reminded people that there are to be no wakes in any bays. While the trails are in great shape, and are fun, the privacy and comfort of others should be considered, especially the area across from Lakeside Realty. This is an area that is legally not ACL's, and is being used for ATV "donuts" and the like, which can be annoying to nearby residents because of dust and noise.

**8.0 General Manager's Report** – Paula Lange wrote a report which will appear in the *Apple Core*. She specifically commented on the lot foreclosure sale June 1, 2013. The Jo Daviess County Sheriff will conduct this sale and ACL's legal counsel Phil Jensen will be here to help with the paperwork. ACL's foreclosure process begins with the filing of a lien in May of the previous year. As of May 2, 2013, there were 28 lots being foreclosed, which is down from the 78 liens originally filed because owners were able to work with the association to pay and have their liens redeemed. This number may still be reduced before the sale. The good news is that in May, 2013, only 41 liens were filed, which is half of last year's. The calendar of events is filling rapidly. All upcoming events may be seen on the website. The triathlon went well and she thanked the many volunteers. June 8, 2013 is the ACL Annual Meeting and property owners are urged to attend. Boat Slip to Trade assignments have been completed for 2013, as well as

seasonal campsite assignments. The No Boat Slip Waiting List and Sub-License assignments are still in progress. She noted that there will be a boater safety class held on June 1, 2013. Paula noted that the boat rental program with Frentress Lake Marine is in place and available to property owners. Live beaver traps have been purchased by the Association and are in use. These will be used and controlled by a licensed member of ACL's Safety and Security staff. If a property owner notices an area of beaver damage, please contact the Security Office so that this site may be properly evaluated. She also stated that there will soon be a Kids' Art Contest (to be followed by an Adult Writing Contest) with the hope that favorite memories at ACL can be recorded for the future. The pictures we hope to use as artwork in the new pool house. Paula also noted that the AmeriCorps volunteers will be working again this summer at ACL, even though an exact date has not been established. ACL volunteers will be needed to provide hot meals when AmeriCorps volunteers are here to provide hot meals. She stated that the new pool will open very soon and that property owners should watch *The Apple Core* and call the hotline for up to date pool opening information. Deb McNamee requested some clarification regarding beaver control and was assured that this is a "control" issue and not an "eradication" program and that it is being properly supervised by a licensed member of the Security and Safety staff.

**9.0 Property Owner Comments** – Fred Pfeiffer – He approves of the beaver control program. It is a beneficial program that is needed. Also, he wanted to know if the construction loan was going to be converted to a mortgage. Duane Suits assured him that the conversion of the loan was already in place. The interest rate will be determined at the time of conversion. The amount of the loan should be something less than \$1.536 million and prepayment is possible.

Jan Davis – Agreed with Erin Winter's comment regarding picking up garbage on the trails. Now that the weather is good, she enjoys walking the trails but is finding garbage every 10 yards! She urged people to be proactive in keeping the trails clean, which in turn keeps the lake cleaner. She noted that ACL has solid waste recycling. She would like to see this expanded by having obvious recycling containers at every garbage container, especially at the Marina and the Pro Shop. At the Marina on many Monday mornings, the garbage containers are full with much material that could be recycled, thus saving ACL money by recycling more. Kevin Kavanaugh requested that Paula ask that Montgomery Trucking add recycling containers. Paula Lange took this opportunity to thank Jan and Steve for personally cleaning up dog pen area used for emergency dog care.

George Drogosz – He stated that he has been a member of the Trail Committee for 4-5 years. He is especially concerned about the trail between marina building and top of dam. He has organized cleanups several times and great strides have been made to improve view of the lake. In the past, there was a promised burn and reseed with non-invasive species of that area and he is concerned that this has not been done during the past 2 years. \$25,000 was allocated to work on the Marina Bay Trail from the marina building towards the dam, and he requested a progress report. Paula Lange explained that finishing and opening the pool and other projects has delayed working on several projects and that the plan for this improvement will be done as soon as practical.

Henry Doden – Displayed a portion of the trash that he thinks fell from the back of an ACL Maintenance vehicle. He found this material after Maintenance did some work near this property. Paula Lange asked him if he actually saw this happen. Mr. Doden stated that he did not. Mr. Doden also stated that Maintenance did a good job of putting in the trail by his property.

Because he is concerned about erosion on trails, he studied this topic and printed out the information which President Kavanaugh requested and received.

## **10.0 Unfinished Business**

**10.1 Rescind the Motion to Restrict Lot 07-239** – President Kavanaugh read the narrative. Erin Winter moved, Bob Ballenger seconded, “to rescind the motion to allow lot 07-239 to be restricted.” President Kavanaugh stated that the photos shown to the Board at the meeting when the restriction was initially granted showed natural rock surrounded by snow. The photos now show that underneath that snow, there is a patio. A patio would violate the provisions of the restriction. Deb McNamee stated that when the Board first voted to allow restrictions, the original intent was to encourage open space. Property owners will not participate in the program if it is too restrictive. She also feels that passive use of the property is being suppressed. She is personally in favor of restricting lots and feels that the Board can view “structures” differently. Marge Clark stated that this Board does not have the authority to make changes to the interpretation, because the Covenants do not allow changes to the definition of structure. This is one of the items that is on the list of proposed changes 5 years after November 6, 2011, when the Covenants may be changed. Deb McNamee maintained that this structure is not permanently affixed to the ground and should be allowed. Josh Cocagne asked, “Where do you draw the line?” He feels the original intent was additional greenway, not a break on assessments. Deb McNamee feels that the dollars are not the important thing but rather having open land in perpetuity. She then questioned how are we going to encourage people to restrict their land? Bob Ballenger stated that AECC situations would require a permit. This particular patio is a structure. A vacant lot can’t have any structure prior to a residential home. Marge Clark reminded the Board that the Covenants define structure and this is what the Board must to follow. The Board does not have the liberty to make decisions based on interpretations. At the time the Covenants were revised, this was a compromise so that unimproved properties would remain open space and the property owners would be granted a reduction in assessments. This also carried the benefit to ACL of not being faced with full build-out of the property and, thus, retaining the character of ACL. Restricting a lot carries a cost to both parties. Bob Ballenger questioned whether or not the restriction remained in place if the lot was sold to another party and was informed that the lot would remain restricted. The motion carried six yeas with one nay from Deb McNamee.

## **11.0 New Business**

**11.1 Introduction of University Of Dubuque Interns** - The University of Dubuque and Apple Canyon Lake have joined forces to accomplish mutually beneficial goals which will benefit the property owners and students for many years to come. The interns selected for the position are Audra Isenhart of Elizabeth, IL, and Tyler DeDecker of Dubuque, IA. Both are current students at the University of Dubuque. The internships have been funded so that there are 10 weeks of work to be performed, with 50% of that time dedicated to physical invasive species control, 25% allocated towards grounds maintenance, and the remaining 25% of the time allocated to research. Both Mr. DeDecker and Ms. Isenhart gave presentations regarding their work. President Kavanaugh officially welcomed the interns.

At this time Chuck Larsen was excused from the meeting.

**11.2 Committee Changes Via Motion of Consent** - President Kavanaugh read the narrative. Josh Cocagne moved, Marge Clark seconded, to “approve the Committee Changes as listed: to accept the resignation of Dominick Agostino from the Deer Management Committee and to appoint Kevin Kavanaugh to the Maintenance Committee as Board Liaison; John Matheson to the Trails Committee; Mike Harris as Chair of the Trails Committee; Tim Kaiser as Vice Chair of the Trails Committee; Betsy Osika to the Recreation Committee; Kathy Richards as Chair of the Recreation Committee.” The motion carried unanimously.

**11.3 Rules and Regulations & Policy Changes Re: Citations** - President Kavanaugh read the narrative. Marge Clark moved to approve the recommended motion with the words “regarding citations” inserted, Erin Winter seconded, to “approve the changes to the rules and regulations and board policy regarding citations as attached.” The language read: “Citations, not paid within 30 days of issuance, unless requesting an Appeals Hearing within 10 days of receipt via Certified mail, will be published in *The Apple Core* with name, lot number, violation, and fine, until the fine is paid or an appeal decision is rendered. The result of an appeal and/or the paid fine will be published in *The Apple Core*. Per Article V, Section 3(d) of the Restated Covenants and Restrictions, membership privileges may be suspended for a period not to exceed 90 days if fines remain unpaid.” The motion carried unanimously.

**11.4 Lot Combination Request** - President Kavanaugh read the narrative. Deb McNamee moved, Duane Suits seconded, to “approve lot combination for lots 04 and 05 in Big Spirit.” Bob Ballenger asked whether or not lot combinations can be dissolved. Paula Lange stated that after the ACL Board approves a lot combination, the county assessor must agree. Once the assessor agrees and processes the lot combination, only the assessor can undo the combination. The assessor has made it clear that only in cases of proven hardship will the combination be undone. In the past, the county assessor said that combinations would never be dissolved. At that time, the Board voted to change the language in the building code to state that there would be no dissolution of combinations. Marge Clark stated that the county assessor’s office stated that it was never intended that lot combinations would be dissolved and at that time the Board voted a year ago to change the language of the building code to say that these lot combinations could never be dissolved. The Board does not have the authority to override the county in these decisions. Marge Clark also questioned whether this property owner clearly understood that such lot combinations cannot be dissolved. Deb McNamee asked whether they continue to pay dues on both lots? Kevin Kavanaugh answered that yes, dues are paid on both lots. The assessor is involved because the property owner receives a reduction on their county assessed valuation. Marge Clark noted that the lot combination agreement does not state that it cannot be dissolved and asked who is informing the property owner of the consequences of a lot combination? Paula Lange stated that there is another form that clearly informs property owners of their rights. Kevin Kavanaugh stated that we need a form that the property owner signs that clearly states they understand the impact of a lot combination. Paula Lange stated there was a form that did this and that she would get it to the Board members. Josh Cocagne was assured that the lots were side-by-side in order to be combined, however they do not have to be. Marge Clark was assured that this lot combination had been before AECC and they did make the recommendation to approve the combination. The motion carried unanimously.

**11.5 Campground Designated Funds** - President Kavanaugh read the narrative. Deb McNamee moved, Duane Suits seconded, to “approve the Campground Committee’s \$100 donation to the SSD campaign for kids. This money will come from their designated funds.” The motion carried unanimously.

Josh Cocagne moved, Deb McNamee seconded, to move agenda item 11.10 to next action, placing it before agenda item 11.6. The motion carried unanimously.

**11.10 Schmitt Greenway Project** – President Kavanaugh read the narrative. Deb McNamee moved, Erin Winter seconded, to “approve the greenway stewardship program as described above and on the application.” Erin Winter moved, Deb McNamee seconded, to amend the wording of the recommended motion. The motion would be amended to read: Approve the Greenway Stewardship Volunteer Program to repair the greenway damaged by excessive rainwater runoff this spring located adjacent to property 03-018. Landscaping work to be completed and paid for by Mr. Schmitt for his property and the approved greenway area. A seed mixture containing wheat to grow quickly will be included with a permanent seed mixture recommended by Mike Malon, SWCD. Seed and straw will be provided by ACLPOA. Trees or branches recommended for removal will be marked by Mike Malon. Mr. Schmitt will mow the pathway to the boat slips based on the acceptable wide of 6’, the remainder of the area on each side to be ecologically restored as recommended by Mike Malon.” The entire project will be overseen by Brian Hartlep and Mike Malon. Bob Ballenger questioned and was assured that either Brian Hartlep or Mike Malon will be on site to oversee the work. Marge Clark was assured that the lot lines are marked. The amended motion carried unanimously.

**11.6 Allow Property Owners To Purchase Additional Amenity Tags** - President Kavanaugh read the narrative. Marge Clark moved, Duane Suits seconded, to “approve the purchase of additional amenity tags by property owners who own multiple properties, by allowing them to pay the OARF (\$100) for the additional property.” Deb McNamee questioned what these property owners were asking to do. Did they want to purchase ten tags for each house? Kevin Kavanaugh clarified that an OARF fee only allows ten tags per owner. If they have multiple properties, this motion will allow them to purchase an additional ten tags per property if they pay an additional OARF fee. It is Deb McNamee’s option that, due to the economy, more houses have gone into rental programs, which has caused problems with neighbors. Renters don’t respect the property. More tags encourage more rentals. Paula Lange stated this will not affect the problem parties in rentals because amenity tags are not required to be in a property. This motion will primarily affect condo owners. Right now condo owners cannot get tags for their other condos. The motion carried unanimously.

**11.7 Recycling Center Five Year Contract** - President Kavanaugh read the narrative. Bob Ballenger moved, Duane Suits seconded, to “approve the five year (2014-2018) recycling center contract to Montgomery Trucking.” The motion carried unanimously.

**11.8 Restrictive Covenant** - President Kavanaugh read the narrative. Erin Winter moved, Deb McNamee seconded, to “approve striking the word “residential” from the document used to record board approved restricted lots.” The motion carried unanimously.

**11.9 Restricted Lot Application** - President Kavanaugh read the narrative. Deb McNamee moved, Marge Clark seconded, to “approve Form B as the accepted application for restricted lots.” Bob Ballenger questioned item 3 in the second paragraph where it reads “or ever shall have had in the past.” Marge Clark stated the language of the Covenants under Article 6, Section 5 is the language of both the Covenants “whereon no structure has been erected.” Josh Cocagne stated that a structure could have been, at some time previous, on the lot, but had been removed prior to the request for restriction, and that would be okay. Bob Ballenger stated that according to Form B, that is not the case because it says “in the past”. Marge Clark felt that Paragraph 2 should also be a point of the agreement, making it very clear to property owners that this will be permanent. After further discussion, President Kavanaugh recommended referring this back to the Legal Committee. President Kavanaugh asked for a recall of the motion. Deb McNamee withdrew her motion. Marge Clark withdrew her second. No action on the motion was taken.

**11.11 Fairway markers for Golf Course** - President Kavanaugh read the narrative. Bob Ballenger moved, Erin Winter seconded, to “approve the purchase of 25 flagstone fairway markers at a cost not to exceed \$650 which will be paid using funds from the Golf Committee designated funds. Maintenance will install the markers. \$7,053 is the current balance. The motion carried unanimously.

**11.12 Replacement Hole Flags for the Golf Course** - President Kavanaugh read the narrative. Duane Suits moved, Bob Ballenger seconded, to “approve the payment of \$665.42 for the purchase golf course hole flags from the Golf Committee’s designated funds. Current balance if agenda item 11.11 was approved is \$6,403. The motion carried unanimously.

**12.0 Other** – There was no other business.

Bob Ballenger requested that the Board look into number of people in a given rental property in the future. President Kavanaugh stated that official occupancy is determined by the square footage of the property. Deb McNamee asked whether this can be sent to the Rules and Regulations Committee. It was agreed to do so.

**Adjournment** – Josh Cocagne moved to adjourn at 2:35 p.m. The motion carried.

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Recording Secretary Kande Haertel

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President Kevin Kavanaugh

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Date

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Corporate Secretary Josh Cocagne