

Highview Condominium II
Board of Directors – Meeting Minutes
October 25, 2022 – 7:00 p.m.

The twenty-eighth regular meeting of the 2019-2020 Highview Condominium II Board of Directors was called to order at approximately 7:00 p.m. by Madalina Rauscher, President. The meeting was conducted remotely by Zoom. Board members in remote attendance: Robert Boynton, Joseph Cann, Marjorie Cannon, Christine Chun, Kathleen DeVaynes, Sindhu Mathew, Madalina Rauscher, and Virginia Re. Marissa Zinnanti attended from CRM Management. Max Lucci proxied to achieve quorum, but was not needed.

- 1) Board Officer vacancy: On 10/24/22, Christine Chun resigned as Treasurer. At this meeting, no other board members indicated a willingness to consider the position.

- 2) Financial Report:
 - a) Bank account balances: As of 09/30/22, Empire checking account balance \$150,623.49 and Empire Savings \$9,997.80.
 - b) Arrears: As of 09/30/22, uncollected balances from unit owners totaled 65,518.53. Four significant uncollected balances with attorney for Small Claims Court and one in foreclosure.
 - c) Coin Mach: Coin Mach's contract calls for the building to be reimbursed for the laundry room's separate ConEd electric bill. CRM reported that they have been unsuccessful in collecting any reimbursement from them. Madalina asked Marissa whether this needed to go to the building's attorney for collection. Marissa will discuss with Madalina later.
 - d) Aged payables (owed by Highview II): As of 09/30/22, payables totaled \$225,076.60.
 - e) Reserve Funds summary: No update at this meeting.
 - f) FY2021 Audit: Completed. See additional discussion later in Minutes.
 - g) Capital Reserve Engineering Study: Boynton in contact with Becht Engineering and they are making several revisions based on a corrected age of several capital components.

- 3) Legal Report:
 - a) Legal actions by building attorney: Discussed during financial report.
 - b) NYC Department of Buildings (DOB) and Environmental Control Board (ECB) building fines: No update.
 - c) Records of insurance compliance by unit owners: Six unit owners remain out of compliance and receiving month fines. No updated list at meeting from management.
 - d) Records of insurance compliance by unit owners' tenants: Only one tenant out of compliance without proof of current renter's insurance on file. Landlord receiving monthly fine. No updated list at meeting from management.
 - e) Leased units: Two units currently in rental without current lease on file. Unit owners receiving monthly fine. No updated list at meeting from management.
 - f) List of pre-approved contractors: No update from management.
 - g) Local Law 11 - Cycle-9b: Work progressing. City requires completion of the project and submission of certification paperwork by 02/23/23.
 - h) Vendors and contractors insurance: No update from management.
 - i) Awning damage reimbursement: Check received from Amazon by Marissa for \$7,559.
 - j) NYC Condo Tax Abatement Law changes: As noted at previous meeting, tax law changes are taking effect in 2022. Although Highview II was not listed among buildings affect this year, Board requested on 01/25/22 that management provide a better understanding of the change in order to anticipate if/when it might apply to the building in future year. No update from management.

- 4) Building Repair & Maintenance:
 - a) Boiler operation and legal compliance update: Ongoing questions, per 09/22/22 Board meeting.

- i) Violations and fines: Summarizing the 04/26/22 Board meeting, CRM reported that the building had received a \$4,000 fine for the boiler's unsatisfactory operation. At the 04/26/22 meeting, Boynton asked Marissa if this was a single fine or likely to repeat. Marissa replied to Boynton that the \$4,000 fine would repeat monthly until the boiler passed the ECB inspection. She was working with Champion Combustion and ECB to achieve a successful inspection.
- ii) Since discussion at 04/26/22 meeting, the issue of achieving a successful ECB inspection and ongoing fine has continued as an agenda item each month and has only been reported in Minutes as "no update" from management beyond CRM working with Champion Combustion and the boiler manufacturer. The boiler has yet to pass the ECB inspection.
- iii) Expiration of boiler's ECB Certificate of operation: When Andrews Management took over management of Highview in April 2021, they determined that Highview's Boiler Operations Certificate had been allowed to expire by Carriage House Management in 2020. In order to qualify for a new Certificate from NYC ECB, the boiler have to pass a pre-licensing inspection. The inspection was scheduled for an August 2021 by ECB, at which time Highview failed the inspection. Through the fall of 2021, subsequent system cleaning, tune-ups and repairs resulted in additional ECB inspection failures and the building continued to operate the boiler without a valid Certificate of Operation. In January 2022, CRM took over the building's management and continued working with Champion Combustion to achieve the Operations certificate. All of these details were previously expressed to the full board by Andrews Management and CRM management.
- iv) Summary of recent boiler operation updates since last month's 09/22/22 regular Board meeting: At the 09/22/22 meeting, it was noted that the ongoing \$4,000 monthly fine from the City was not appearing in the financial reports. Marissa indicated that the fine was only appearing in the itemized gas bill from National Grid. Questioned by Board, as only the City issues fines, not the gas company. Marissa said she would clarify and get back to Madalina with a more detailed response later in the week.
- iv-1) In 09/29/22 email, Sindhu reported meeting with Marissa during boiler contractors' site visit. She noted to Marissa that in the last few management reports, the \$4,000 fine did not seem to be included in the National Grid bill either. Marissa explained to Sindhu that the building is only fined when the boiler is on, and boiler has been turned off since April or May. Sindhu shared that update with Board. Boynton and Cann questioned management's update to Sindhu, as the boiler is never turned off and continues to run all summer in order to provide the building's hot water. On 10/03/22, Marissa confirmed the exact amounts of fines as follows: January 2022 (\$3,613.34), February 2022 (\$2,956.38), March 2022 (\$3,065.86), and April 2022 (\$1,751.92). On 10/11/22, Marissa reported that she would investigate whether the building can convert its service to gas only, so that any issue involving the building running on fuel oil is no longer an option.
- iv-2) At this 10/25/22 meeting, Marissa clarified that the building is not receiving a "fine" as previously reported. The correct term is "penalty charge" from the gas company, National Grid. The penalty charge is issued each time the outside temperature drops to a specific low winter temperature that triggers National Grid to remotely switch the building's system from natural gas to fuel oil. The penalty charge was issued each time the temp dropped and National Grid unsuccessfully attempted to flip the system from natural gas to fuel oil, which explains why the penalty charge varied by each month and the penalty charges ended when the weather warmed up for spring and the outdoor temperatures were no longer below the triggering temperature. Upon hearing this, Joe Cann stated that the system had been successfully flipping through the months in question, contrary to National Grid's claim. He confirmed this with Luis as well. They noted that although the boiler did not run well on fuel oil, the gas company's remote switch did make the flip successfully. Marissa will appeal the fine to National Grid, but it is a separate office from the one that issued the fine.
- iv-3) Pending update from CRM: status of boiler's Operations Certificate, status of Champion Combustion achieving a satisfactory inspection from ECB, confirming whether the building can

qualify to only run on gas (so switching to fuel oil no longer an issue), and appeal of fines for switching not taking place when super and board member say it did function.

- b) Boiler replacement: Bidding has been completed and the contract for boiler replacement will be approximately \$750,000. Allowing for engineering work and certifications, Becht Study allocated \$800,000 for the project. Board will meet with Salomon Engineering to review/discuss bids. Marissa will arrange for Zoom meeting. Engineer will then make himself available at General Membership meeting #2 to answer any related unit owners questions. Question raised as to whether Highview might qualify for a New York State Energy Research and Development Authority (NYSERDA) grant for the boiler's increased efficiency.
 - c) Foundation cracks: Bidding in progress. Anticipate completion of bidding in December.
 - d) Local Law 11 - Cycle 9b: Special Assessment payment deadline is 10/31/22. Work is progressing. CRM will send updated total of payments received. City requires completion of the work and submission of paperwork by 02/23/23.
 - e) Roof exhaust fan: CRM getting estimates for repair/replacement. Noted by both Cann and Boynton that the only bid received to date did not provide adequate breakdown of actual components. No update from management.
 - f) Capital projects: Special Meeting will be scheduled by Board for in depth discussion.
 - g) Maintenance schedule: Zinnanti will review and share with board at next meeting. No update from management.
- 5) Committee Reports:
- a) Financial Planning. Boynton and Rauscher only volunteers. (See Special Meeting listed herein for update.)
 - b) Building Beautification & Improvement. No update.
 - c) Rules & Regulations: (See Special Meeting listed herein for update.)
6. Review of recent Special Meetings (3): Since the regular Board meeting on 09/22/22, the board held (3) additional meetings on critical topics. At this board meeting, Madalina summarized the meeting dates, topics, and outcomes to confirm board members agreement and to be recorded in Minutes. The Special Meetings occurred on 10/04/22 (Finances & Capital Projects), 10/10/22 (Prioritization of current Capital Projects), and 10/18/22 (General Membership Meeting dates). An addition meeting has been scheduled for 11/01/22 to review Rules & Regulations and consider amendments and additions.
- a) **Special Meeting of 10/04/22: Discussion of Finances & Capital Projects**
 - i) Audits - remaining questions for Board approval
 - i-a) FY2020 Auditor's access to Highview's financial records: Clarification requested from auditor as to definition of a "forensic audit". Noted by Boynton that board meeting minutes of 08/24/21 indicate that David Cutler requested additional funding for forensic work on the FY2020 audit that was in progress, on account of the auditor's inability to gain access to Highview's financial files in the office of Carriage House Management. Board had approved additional funding at that meeting. No indication in current FY2020 draft that access was a problem. Auditor's reply to Madalina: "A forensic audit examines and evaluates a firm's or individual's financial records to derive evidence used in a court of law or legal proceeding." Madalina will request edits on FY2020 Audit.
 - i-b) Other issues were raised about the audits concerning absence of the 6-C legal action (only 1-B was mentioned). Should the significant absence of 2018/2019 utility payments have been noted in FY2020 audit? T-Mobile income dropped from FY2020's \$41,618 to FY2021 \$14,930 due to the board's choice to deposit the checks from T-Mobile directly into the Highview Condo II Citibank Account where we keep reserve funds separate from management's control. Sindhu deposited the checks monthly and provided proof of deposit as well as validation on the Citibank statements. The Citi account is separate from management reporting system reviewed by auditor for FY2021, which was later identified as a gap in the audit. Record of each deposit (deposit slips and the account balance) was shared with Madalina Rauscher and David Cutler, and their decision was to keep the checks from passing through Carriage House Management which had become chaotic. Accumulation of delinquent water bills going back to 2018 not mentioned in any one of the 3 audits. Without any

record of receipt of these bills, auditor indicated that they would not appear in an audit until discovered in FY2022. They will appear in the FY2022 audit.

- ii) Capital Reserve Study (draft): Edits in progress. Initial review by the Board raised questions concerning the original installation dates of specific components that Becht had relied on super and management to provide from past records. With management changes, what would normally be a comprehensive archive of the building is now limited to the period following Carriage House, who refused to turn over the building's historical records when they were fired. Date of the elevator overhaul, awning replacement, and several of the security system components to be corrected. Once revised draft completed and Becht meets with Board to approve, final report will be added to the website. A General Membership Meeting will be scheduled with Becht and a new building auditor for extended discussion of the building's Capital Reserve needs. Initial draft of Becht's report noted possibility of energy upgrade grants for the boiler replacement. Salamon Engineering indicated that this should be explored with the final contractor selected for boiler replacement.
 - iii) Selection of Auditor for FY2022: Boynton contacted the previous firm used from 2000-2014 for a reference. Madalina will ask building's attorney for a reference. Christine recommended Raines & Fischer as highly regarded. Contract needs to be signed by end of October and FY2022 audit completed by end of March 2023.
 - iv) Budget for FY2023: Treasurer (Christine) will work with President (Madalina) and management on a draft of FY2023 Budget to be approved at regular November meeting and needs to be active on CRM's system before January 1st for accurate FY2023 reporting. Consideration of any necessary Common Charge increases. Noted that in most recent budget report of 09/30/22, with 3 months left in the year and the heating season just beginning, electric usage has already exceeded budget by more than \$15,000 and natural gas by more than \$21,000 -- indicating that current Common Charge is not covering actual Operation expenses. Virginia Re asked about the rate we're currently paying Nation Grid for natural gas and believed we may be paying a higher rate on account of our 01/2022-03/2022 history of violations. Madalina will request clarification of this concern from CRM.
- b) **Special Meeting of 10/10/22: Comprehensive Review and Prioritization of Capital Projects.**
Prioritize which projects needed to be conducted immediately and require special assessment versus other projects that can be wait listed.
- i) Critical Projects for immediate Special Assessment:
 - i-a) Facade Repairs required by Local Law 11 - Cycle 9b are currently in progress. As the work has to be completed and inspected by the City by February 2023. A Special Assessment for \$200,000 was billed to Common Charge accounts in September and full payments are due by 10/31/22. Although a final bill for the project can only be estimated, conditional to any additional facade cracks located as the work proceeds, work is still to be determined, current expenditures include engineering and a contract with Basonas. As the work progresses, it is possible that additional repair work will be determined. If Basonas sees any cracks, they will bring to the engineer's attention for confirmation and Board approval of the work. Costs of the original contract dictate a cost per foot for various types of repairs which was approved by the Board. None of the additional work is optional, as the engineer will have to sign off as completed prior to the final NYC inspection in February.
 - i-b) Boiler replacement: Following engineering design and competitive bidding, the actual boiler replacement will cost \$746,420. Bids include renting of a temporary boiler for a period while the old boiler is being removed and the new boiler is not yet in service, relining of the burner's chimney going up to the roof, and decommissioning of the building's 10,000 underground fuel oil tank which currently contains approximately 4,000 of fuel oil. Noted that without a temporary boiler, even in summer when heat would not be needed, there would be no hot water service either. There will still be additional costs of NYC certifications and the Board anticipates a final cost of the project at approximately \$800,000. A meeting will be scheduled with the final bidder and Salamon Engineering to review details and discuss any miscellaneous issues of compliance with Local Law 97's 2030 deadline.

- i-c) Water utility bill: On 02/09/22, CRM Management informed Madalina that Highview had an accumulation of delinquent water bills dating back to 2018 that totals approximately \$87,000. Cause of this delinquent accumulation due to non-payment by Carriage House Management and their refusal to turn over any Highview files when they were fired 03/2021. Converting access from Carriage House to Andrews without any record of account numbers, Carriage House refusal to cooperate, and Covid affecting City offices was a lengthy challenge and only discovered as CRM was changing Highview accounts for their management access in 2022. As clarified on 10/05/22, the current payment plan is for 60-monthly payments of \$1,441.96. The payments include interest in addition to the actual water charges. It was agreed by the Board that paying off this debt in full is a priority.
 - i-d) Foundation cracks: Upon a preliminary inspection requested by the Board, Salamon Engineering determined that there were structural cracks in the building's foundation that deserved immediate investigation. Engineering analysis and design work for the repairs has been completed. Competitive bidding is in progress. Only once bidding is completed will actual repair costs be known. In the meantime, the Board is estimating repair costs at \$50,000. as a placeholder, considering that prior foundation repairs had cost \$35,000. The Board anticipates that true costs, determined by the actual bids, will be known by December.
 - i-e) Video Security System Server: Has been undergoing system failures and service calls attributable to the computer server reaching end of life span. Replacement cost \$10,400. This expense was anticipated in Capital Reserve Study.
- ii) Secondary Capital Repair priorities: projects normally funded by Capital Reserve was reviewed and it was agreed that these projects could wait for replenishment of the Capital Reserve Fund which is now in progress at a slower rate.
 - ii-a) Emergency electrical backup generator: Approved by General Membership in 2016 to assure emergency operation of the heating boiler and stairwell lighting.
 - ii-b) North boundary sidewalk: Sidewalk running from service entrance to Martha St.
 - ii-c) Garage floor sealing: Limited to those areas of the garage floor that are not already failing, as identified by Becht Engineering in the Capital Reserve Study. Noted that in addition to normal liability issues, the building's central foundation supports are anchored below this floor and need to be kept free of salt intrusion. The floor also protects the sewer mains running just underneath the garage floor.
 - ii-d) Security cameras: Additional security cameras in currently unprotected areas.
- c) **Special Meeting of 10/18/22: Scheduling of General Membership meetings**. The primary purpose of the regularly scheduled Annual General Membership Meeting is for unit owners to meet with building's auditor to discuss building finances and most recently completed audit, followed by election of Board members whose terms are expiring and for vacancies created by resignations that were temporarily filled by appointment according to the Bylaws. At this time, additional topics need to be covered in 2-3 hour General Membership meetings concerning Capital Repairs, the depleted Capital Reserve, and development of a loan option for those unit owners unable to pay their share of a large upcoming Special Assessment in early 2023.

Although the Board had previously received copies of FY2019, FY2020, and FY2021 audits, the audits had not been approved and were necessary as the core of annual meeting. On 09/08/22, Zoom meeting was held with board members Christine Chun, Kathy DeVayne, Sindhu Mathew, Madalina Rauscher, Virginia Re, and building's auditor Louis Picaro to address questions and concerns raised by board members. Board members not attending this meeting submitted questions to Madalina in advance of meeting.

At this 10/18/22 meeting, the 09/08/22 attendees were asked to summarize the concerns discussed with Picaro and whether they had been adequately addressed. Following discussion, a majority of those in attendance approved all 3 audits. A dissenting vote was recorded from Virginia Re. All others approved,

with Boynton's approval conditional to receipt of copies of audits reflecting the edits agreed upon with Picaro and confirmation that the paragraph of text Madalina had submitted for inclusion of the FY2020 audit appears, referencing the Treasurer's recommendation, in consultation with Louis Picaro, that the Board authorize expenditure for forensic work in the absence of access to the actual Highview financial files maintained by Carriage House.

Copy of the amended FY2020 audit was not available, but Madalina will review to assure the amended text appears.

In order to call a General Membership meeting to order, a quorum of one-third of all owners' unit-points must be present or represented by proxy. Per NY Covid guidelines affecting condominium law, in-person has allowed for remote attendance, which will be followed for acceptable attendance in achieving a quorum at this General Membership meeting, as it has been used for Board meetings. Unit owners will have the option of attending each meeting either in person or remotely (Zoom). As the lobby has no ventilation and all 67 unit owners are encouraged to attend, the meeting will be held in the lobby with enhanced ventilation or outdoors if weather conditions permit. It is anticipated that at this time of year, the outdoor option is unlikely.

i) **General Membership Meeting #1:** Since the onset of Covid, all Board meeting have been conducted remotely by Zoom and the annual meetings for FY2019, FY2020, and FY2021 were delayed in accordance with NYC guidelines and legal review of the condominium's responsibility for annual meetings. With the urgent need for unit owners to review building finances, all three fiscal year meetings (fiscal years 2019, 2020, and 2021) are being combined into a meeting format that will be as Covid safe as possible.

i-a) Attendees include the building's auditor, attorney, management representative, board members, and unit owners. Following review of the three fiscal years, board members will be elected. In a given year, board elections typically include the expiring terms of 1/3 of the board to assure operational continuity. However, with no annual meetings in 3 years, all nine slots on the board have expired and all will be subject to election at once. As the financial review of a single year typically takes an hour, it is anticipated that review of 3 separate audits and unit owner questions will take 2-3 hours.

i-b) CRM Management will draft and send letter to owners to inform them if they would like to be on the board to let us know so they can be included on the ballot. The deadline for nominations will be November 18, 2022. The ballots will be printed and mailed in advance for the meeting, but will also available online for unit owners attending remotely.

ii) **General Membership Meeting #2: Capital Reserve Study meeting (possibly wk 12/05 or 12/12):** Additionally, the board needs to discuss the building's Capital Reserve and Capital Projects. This General Membership meeting needs to include a complete review of the recently updated Capital Reserve Study and all current projects. Attendees need to include Becht Engineering (capital Reserve Study forecasts), Salamon Engineering (current engineering projects), the building's auditor (discussion of adequate reserves), and the building's attorney (legal options and responsibilities). It is anticipated that this meeting will take 2-3 hours.

Completed projects since the last annual meeting on 11/12/19 led to depletion of the Capital Reserve from approximately \$300,000 balance in 2017 down to a negative balance by the end of 2022. This was largely due to a Local Law 11 - Cycle 8 inspection in 2018 that cost the building approximately \$200,000 and the 2019 elevator replacement costing approximately \$180,000. As previously noted, the cost of neither one of these major projects was passed along by the board to unit owners as a Special Assessment

and several Board members felt that the approximate \$380,000 in Special Assessments needed to be held until after the 40% of unit owners participating in the loan paid off their debt.

Marissa will confirm availability of Becht, Salamon, auditor, and attorney before confirming relevant meeting dates.

- iii) **General Membership Meeting #3 -- Loan option for Unit Owners:** In order for unit owners to pay their share of upcoming Special Assessment anticipated to exceed \$900,000, Boynton coordinating options for building loan as he did in 2016. The 2016 Special Assessment was for \$400,000.

Presently, the only cost still to be finalized for the upcoming Special Assessment is the foundation repairs. As previously reported, Boynton made the preliminary inquiries in early 2022, but was unable to proceed without final bidding completed on any of the projects that would be included. Once interest rate and term tentatively determined in December, a General Membership meeting could be held for unit owners to discuss their options. In 2016, unit owners had the option of making full payment on their share of the Assessment and thereby skipping the costs of loan closing or committing to a 5-year loan with no individual pre-payment or early closeout options. In case of a unit being sold that is participating in the loan, the continuing monthly loan payments would transfer to the new unit owner's Common Charge account.

This meeting would need to be attended by bank representative and building's attorney. As that meeting approaches, CRM will create a spreadsheet for the individual Assessment per unit. As Special Assessments are according to unit points, the completed spreadsheet will list each unit, their respective unit points, their share of a Special Assessment as a single payment, and the monthly cost if their decide to participate in a loan that would be set up for those unit owners, as was arranged in 2016 for the approximately 40% of unit owners who were unable to pay their share of a \$400,000 Special Assessment.

In response to Board member's question, although Bylaws require General Membership approval for Capital additions, alterations, or improvements in excess of \$15,000, Capital repairs and replacements, such as replacing the boiler, do not call for a General Membership approval. Attorney has previously indicated that a Capital Improvement would be addition of a swimming pool on roof, converting the back lawn into a parting area, or building a new wing on the building. But all Capital Repairs and Replacements currently under consideration are not approved by General Membership. The only vote by General Membership would be to authorize a building loan to cover the unit owners unable to pay their share of the Special Assessment when it comes due. The building's attorney would be present at any related meeting to clarify the Bylaws and any related NYS condominium law questions unit owners might have.

If unit owners do wish for the building to develop a bank loan for those unit owners who will be unable to pay their share on time, a building loan would require the approval of 50% of those unit points represented in meeting with a quorum (1/3 of all unit points represented in person or by proxy).

Date for this General Membership meeting still to be determined once bids finalized. Attendees to include bank representative, building attorney, and unit owners.

- iv) **Special Meeting to review Rules & Regulations.** Tentatively scheduled for 11/01/22. The primary purpose of the meeting would be to review all Rules, update as needed, and consider any amendments or additions.

The meeting was adjourned at approximately 9:00 p.m. Minutes submitted by Robert Boynton, Secretary.