

**THE ELEMENT NEWHAVEN OWNERS' ASSOCIATION
(TENOA)**

Minutes of the Annual General Meeting

Tuesday 3rd September 2019 7pm at

Forth Suite, David Lloyds Newhaven Club, Western Harbour Drive EH6 4LX

Chairman: Rodney Matthews

Members Present: 31 members, representing 30 properties, and 78 apologies.

In attendance: The Element Factors represented by Marc and Simone Myburgh and Jakub Swidzinski (Baltic Solutions, that carry out the maintenance work)

1. Welcome, noting apologies for absence and proxy votes

The Chairman welcomed those who attended and the secretary announced numbers present, numbers of apologies and proxy votes. The chairman went on to explain that one owner of each property was entitled to vote and that he had been appointed to act as proxy for 71 of those who had apologised for absence. The secretary announced that he had been appointed proxy for a further two. Thus the total votes represented at the meeting was 104 (31 present, 73 Proxy votes)

2. Minutes of the AGM held on 4th September 2018

The chairman explained that the minutes of the last AGM had been published shortly after the date and were available to read on the website. He proposed that we pass them. This was seconded by Alister Willey and the meeting passed them as a correct record unanimously.

3. Elections

The chairman gave the following explanation: According to our constitution, the chairman and secretary, who are both ex-officio members of the committee, are elected each year to stand for that year. The six committee members are elected for a period of three years after which they can be reelected for a further three years. However, committee members may decide to step down after a shorter period.

The chairman reported that he had been nominated to continue for another year by Alistair Byres, as had the secretary, Ken Webb.

He went on to thank members of the committee who, for good reasons, have decided to step down for their contributions to the work of the committee. These are Pamela Bowman, Jo King and David Gardner. He also thanked Simon McIntyre, who is not standing for reelection, for, amongst other things, setting up the Neighbourhood watch scheme. Thus, he explained, there are five vacancies on committee at this time, Evan Simpson having yet one year to serve.

He had received nominations for three people to the committee. The committee has the right to co-opt other members during the year. He first introduced the new member, Martyna Adamowicz-Brice. He then introduced two more, Alastair Byres (not present) and Jane Brook, both of whom have served on the committee

before. Brief profiles of each had been circulated to members prior to the meeting.

Since none of these nominations were being contested he proposed that we elect all in one block vote. Simon McIntyre seconded this proposal. All were in agreement and these people were duly elected by an unanimous vote.

4. Chairman's Annual Address (A copy of this will be posted on the website)

The Chairman's address gave an optimistic view of where we are at the present whilst looking back with pride on what we have achieved together in this past year and looking forward to the next.

The chairman highlighted the importance of maintaining and developing the building we collectively own, a responsibility that we delegate to the Factors to carry out on our behalf. The annual budget for this work is a staggering half a million pounds. He pointed out that this includes capital items paid for out of the 'Red Fund' as well as paying for routine bills such as electricity, insurance, lift maintenance, cleaning etc.

He went on to speak of the promising development of the whole area of Western Harbour on land owned by Forth Ports. Plans have been drawn up and approved by the City of Edinburgh Council. The first project, beginning soon and being undertaken by CEC, is a new Primary School opposite Platinum Point. The rest of the project, including a park area, will be undertaken by private developers. He envisages that Newhaven will then have the potential to be a vibrant community of over 10,000. All of this will, in the end, add value to the properties we own in the Element. However, meanwhile, we will have to live with the disruption and mess caused by the construction of around 800 new homes on this land.

Citing the fact that one of the committee's aims is to foster a sense of wellbeing and community. He enumerated a number of activities that helped to foster that sense of wellbeing, such as communal cleaning up rubbish on the waste land in front of Western Harbour View, coffee mornings, not to mention the friendships formed in the different blocks amongst neighbours with shared meals etc.

He mentioned the fact that this good feeling is occasionally spoiled by thoughtless acts, such as excessive noise, unsightly rubbish, the stale smell left by smoking and fag ends in the entrances, careless damage to lifts, doors and floors. He warned the meeting not to assume that these were all the fault of holiday makers and those who let their properties for them. He said that we are trying to address these through the Element Code and Living in the Element, documents that were developed in response to last year's AGM.

He noted other matters of concern that would be dealt with elsewhere such as the ongoing saga with NHBC insurance claims and the pursuit of owners who consistently fail to settle levied charges for the Red and Green funds, though that only accounts for 2% of all owners.

The chairman concluded by mentioning the formation of the Heart of Newhaven initiative, seeking to achieve a communal purchase of the old Victoria Primary School as a community asset, the steering committee of which he is also chair.

He encouraged us, if we haven't already done so, to sign up as members so we can keep up to date with developments and have a say in what happens.

5. Secretary's Report

- a) Membership:** The secretary reported that our current membership totals 244, a few of whom had joined at the meeting. Between them they account for 209 of the 278 properties, each with one vote at the AGM.
- b) Website:** The secretary said that he had taken over the management of the website from Jo King, when she stood down from the committee. He has little experience in managing a Word Press website, but has had some instruction from a friend who designs websites. He would like to hand this over to someone else who has more expertise, for whom this would not be an onerous task. They would not need to be a member of the committee.

6. Adopting Accounts for the Year ended 21st July 2019, together with report of Independent Examiner

These had previously been circulated by Simone Myburgh of TEF and we are obliged to adopt them formally at the AGM. The chairman asked for a proposer and seconder: Proposed by Dave Gardner and seconded by Alister Willey and adopted unanimously by the meeting.

7. Appointment of Independent Examiner for 2019-20

The chairman said the committee were recommending that we appoint the same Independent Examiner of our accounts as last year, namely Barry Shanks of Shanks Accounting and Advising Limited. That we should do so was proposed by Alister Willey and seconded by Andy Steel and all were in agreement.

8. Presentation of the work of The Element Factors (TEF) 2018-19 with a forecast of work to be carried out in 2019-20

This year Simone Myburgh had circulated a report to all owners prior to the meeting. The report was received without comment by the meeting.

9. Fees (Green and Red funds) for year beginning 1st October 2019

The Factors had circulated their Proposed Fee Notice together with a separate document detailing the financial figures justifying that levy. This amounts to £110 p.c.m. for the Green Fund and £20 p.c.m. for the Red Fund, though some choose to pay a sum of £240 for the year up front. Thus the level is the same as last year. They were confident that this would be sufficient given the fact that only 2% are defaulting. SM said that it was vital for these to be paid at the beginning of the month to keep cash flow in balance and it was also helpful to have some pay the Red Fund as a lump sum up front so that there were funds for contingencies.

The Chairman explained that, though the Factors had suggested a realistic rate for the Green and Red Fund levy and the committee had gone with their recommendation, the members had to vote to accept this levy at the AGM.

A discussion followed with the following matters being raised:

- a) **Lift maintenance contract:** Evan Simpson raised a question about the maintenance of lifts. Marc Myburgh explained that when TEF took over in 2015 there were £42,000 of repairs required for the lifts. Orona, who had the contract to maintain them already, did the work. In November the current contract comes to an end and TEF will be looking for a company that can offer better service at a better price.
- b) **NHBC claims:** The chairman reminded the meeting that there were two aspects to this: Claims that individual owners can make on remedial work needed on their own property and claims that the Association has made on work needed on the communal areas of the building, such as the roof and garden. Since the guarantee period lasts only for 10 years and since the last block, 9 WHV, was completed in 2009 we are coming to the end of the period when when individual owners can make a claim. Neither TEF nor TENOA are responsible for individual claims. Owners must use their own NHBC certificate, if the date is still valid, register their own claim and get a claim number. Any communal claim is now out of time unless already in process.

Marc Myburgh added that work to improve the communal garden cannot start till we have settled our claim with NHBC has been settled. They have offered a lump sum that is not adequate and quotes for the work needed have been sent.

Jakub Swidzinski added the following points:

- Any with an open claim that is not being dealt with should make a complaint by Email using the NHBC website contact page (<http://www.nhbc.co.uk/AboutNHBC/Contactus/>).
 - If, after making a fresh claim, you get a letter from NHBC saying they will not deal with it, please let TEF know, sending them a copy of the letter. And if, after 2-3 months there is no response, follow the complaints procedure as mentioned.
- c) **2016 Critical Risk Analysis:** Alistair Byres (via the Chairman acting as his proxy) asked about progress in addressing the critical risk analysis report that was published in 2016. Marc Myburgh said that a progress report would be published in October and another in March 2020.

Motion: That we accept the fees of £110 p.c.m. for the Green Fund and £240 p.a (or £20 p.c.m.) as recommended by the committee: Proposed by Jane Brook, seconded by Alister Willey and accepted by all.

10. Open Forum with questions and discussion arising from reports

- a) The Chairman referred to his letter circulated to all owners by TEF about smoking in entrances and the increase in lock boxes being fixed in various ways to entrances. He highlighted the following:
- **Smoking:** It is illegal to smoke in common areas and entrances of public building because to do so means that people entering and exiting building have to walk through a smoky atmosphere. And the committee did not feel we were obliged to place cigarette disposal stands near the entrances.

- **Lock boxes:** These are often used by owners who let property on short lets. These have been affixed to the building or railings in a somewhat haphazard and untidy looking manner. According to our title deeds, we are not allowed to fix anything to the building. The committee don't want to ban the practice as it can be useful for those who have carers coming in as well as those letting property. So we are trying to find a way forward that improves the look of the Element as well as accords with our title deeds. TEF are initially doing a stock taking exercise and are asking all owners who have lock boxes fixed at the entrance of their respective blocks to let TEF know where they are located. TEF and the Committee will then consult with these owners to find the best way to manage the matter.

- b) **Holiday Lets:** Simon McIntyre reported on a Scottish government meeting he attended on our behalf. The purpose was to consult with people impacted by or owning property used as short lets for holiday makers. He said the Scottish government is trying to formulate a policy that both encourages tourism and deals adequately with the problems created by the excessive number of properties used in this way. There were mixed views amongst those who attended the meeting. No definite decision was presented, since the purpose of the meeting was to gauge local opinion. The Scottish Government will set guidelines for local authorities. It will be up to the local authorities to set the policy. There was an indication that it would be dealt with in the near future.

A question was asked about why Western Harbour Midway Owners Association has a different view of short lets from ours. The Chairman said he had been in touch with his counterpart in WHOA. Their different approach is due to the fact that their title deeds differ from ours. We cannot and do not want to prohibit short lets in the Element. However we do want to help owners avoid bad practice. So we are encouraging owners who let their property to be more aware of the basis on which their property is being let out by agents and to comply with the Edinburgh City Council's regulations. These require them to apply for a change of use from domestic to business and to pay business rates, rather than council tax.

- c) **Charging points for electric vehicles:** Alan Rickman asked if there were plans to put vehicle charging points in our basement car park. Since it is a government policy to change to phase out all petrol and diesel vehicles and change to electric cars he suggested it would be wise to budget for this. Simone Myburgh said that TEF had found out that it would cost at least £6,000/ charging point. Owners were asked to indicate interest and only two responded. TEF and the committee concluded that the demand was not yet sufficient to warrant this. We are not, therefore, budgeting for this in the next two years. But it remains an option for the future.
- d) **Courtyard Garden:** Carol Webb would like to see a little more of a garden that is wild life friendly and where we can sit and enjoy it. She asked if there any others who would like to do this. Jakub Swidzinski suggested that the owners form a garden sub committee to plan what they would like to do with the garden once the NHBC issues have been dealt with. However, Carol said that

what she had in mind did not have to wait till then. It was just to create somewhere where residents could sit out and socialise with a few planters around. The chairman encouraged her to get a small group together. Hopefully, in a year or two, once the NHBC claim has been settled, we can take steps to improve the whole garden.

- e) **Vehicles abandoned in car park:** Robert Simpson asked if anything was being done about vehicles that had been abandoned in car park. He had also noticed trades vans being parked in visitor parking spaces. Marc Myburgh said that TEF have sent 18 requests asking DVLA to identify owners and they have only had 4 responses. Once the owner has been identified they then have to send a registered letter to owner asking them to remove their vehicle. If there is no response then, eventually, they can get them removed. This can be paid for out of insurance. Meanwhile they have even washed vehicles to make them look more presentable! It is equally difficult to deal with abandoned bicycles.
- f) **Danger of vehicle theft:** Marc Myburgh warned that the amount of bicycle and vehicle thefts in Edinburgh has increased lately. So the CCTV in the car park is useful. Teenagers have been seen snooping around having followed a vehicle in. He reminded us not to keep valuables in our vehicles or keep them hidden. Dave Gardner noticed a car parked with its window left open. Marc advised us to please keep eyes open when exiting and entering the basement car park.

11. Any other competent business

Communal Recycling Bins: Ken Webb reported that bags that had been tied up were being placed in the green communal recycling bins, despite the fact that there is a clear notice showing that this is not allowed. It is clear that some of these bags contain mixed rubbish and that people are still putting articles of clothing and other articles that cannot be recycled into these bins.

Alistair Willey, suggested we place the green recycling bins at the back of the rubbish store and make sure their lids are down, because people often simply chuck their bags in the bins nearest to the door.

The chairman reminded owners of properties let out on a short lets basis that they need to advise their guests not to dispose of rubbish in the communal bins but to leave their rubbish in bags for the owner to dispose of in a commercial (red) bin.

The meeting was brought to a close at 8.30pm.

Minutes recorded by Ken Webb, TENOA secretary