

MINUTES
GARDEN AGM 7th December 2017 at 5.30
Held at 19 Eastbourne Terrace

Present:

Mel Altshuler
Ian Callan
Kenneth Ibbett
Joe Porter
Haydn Turner
Charles Wigoder
Sam Necker

In Attendance: Aaron Landeryou
Joe Porter

Apologies:

Caroline Garnham
Giovanna Grassi
Stuart Glyn
Barbara Altshuler
Robert Player (Garden Associates)

Haydn Turner opened the meeting by welcoming everyone and advising this was the 19th Annual General Meeting of Hyde Park Gardens

Approval of 2016 Minutes - the Minutes of the AGM of 2016 were produced and were accepted.

Haydn Turner explained there were a number of items for discussion and approval.

1. To review and agree last year's expenditure and set a budget for next year
2. Agree a Garden Committee which meets occasionally. Haydn invited those who would like to serve on the Committee, to let us know. Those attending all agreed to sit on the committee: Haydn Turner, Barbara and Mel Altshuler, Kenneth Ibbett, Charles Wigoder and Ian Callan
3. To review the actual day to day working of the garden, To discuss the ongoing legal case with the Church

Commissioners and to decide whether to continue with the case.

The first order of play would be to re-appoint Robert Player, our Gardener. Our garden has again won a prize and been voted 2nd in this year's London Garden Society award for the Best Large Private Garden.

Gardener's Report and Re-appointment of the gardeners - In the absence of Robert Player, Aaron Landeryou read out an email from Robert with his review of the garden in 2017. Aaron Landeryou explained that Robert has been pleased with work around the garden some of the planting schemes are starting to take shape and enhance the garden.

There were two negative remarks from Robert, firstly that residents and their contractors are dumping non-garden waste rubbish in the garden waste compound. Over the year, Robert and his team have found tins of paint, plastic bags of household rubbish and electric kettle. Because the garden waste has been contaminated with non-green waste, the garden has had to pay additional costs for removing the rubbish from the garden waste compound. Aaron explained that if residents continue to dump non-green waste in the waste compound, then it is high likely that the council will impose a heavy fine on the garden. It was agreed that Aaron will purchase a sign for the garden waste compound highlighting that only green waste should be placed in there.

The second item that Robert raised is the continual dog fouling in the garden that dog owners are not removing. Over the course of the year, Robert has had to let two of his staff go home after they knelt in dog waste in flowerbeds. One of these members of staff then had to travel home on the tube which was unpleasant for both him and other travelers. Robert and his team regularly find dog waste belonging to two different dogs, one of medium size and another from a small dog.

Haydn Turner was extremely unhappy with the dog situation and felt that it was unfair on Robert's team to have to deal with dog mess because owners were failing to pick up after their dog.

Elizabeth Wigoder explained that Connie Freeman was almost daily letting her dog out late at night and early in the morning and only letting the dog back into her flat after the dog had stood backing at her back door for sometime up to 30 minutes. Aaron Landeryou confirmed that he has also received reports from residents living in

2-8 Hyde Park Gardens that Connie Freeman was letting her dog out and allowing it to bark for long periods of time. It was suggested that if Connie continues to let her dog stand outside barking then she should be reported to Westminster Council's noise team who can take action against her.

The motion to re-appoint Robert Player was approved by all those attending.

Managing Agent - Haydn Turner explained that on behalf of himself and Kenneth his co-chairman, we have had a series of agents over the years, and for the last few years we have had an excellent service from Westbourne Block Management who are totally helpful, totally available and we are very happy to continue this arrangement. This was accepted by all.

Aaron Landeryou of Westbourne then discussed the budget, and explained that over the last number of years the budget has been set at £55,000 but the expenditure has been running at £64,000. The reason for the budget being lower expenditure was down to the fact that a number of years ago the committee agreed to reduce the reserve by £9,000 each year as they had accumulated a healthy reserve. However over the last two years the garden reserves have been reduced, firstly in 2016 with the rebuilding of the garden waste compound and second with the upgrading of the irrigation system and continuing legal case with the Church Commissioners. Aaron suggested that in order for the reserves to return to a healthy position and the gardeners have funds to cover major projects, the new budget for 2018 should be set at £73,000. It was agreed by those present that the 2018 budget should be set at £73,000.

Legal Dispute with Church Commissioners - Haydn spoke about the general dispute with the Church Commissioners and the service charge they should have paid. The Committee have instructed Counsel to pursue it on our behalf. The amount owing is £63,000 although this will rise to at least £70,000 in 2018. The Church originally offered us £15,000 to walk away, but they have now lowered their offer.

Haydn Turner explained that at a recent Without Prejudice meeting with the Church Commissioners, their agent had stated "residents of Hyde Park Gardens are rich enough to cover the shortfall that we are refusing to pay".

Kenneth Ibbett explained that in recent weeks the solicitor acting for the committee has been changed due to poor performance. The

solicitor now dealing with the case is Janice Northover who is based close to Hyde Park Corner. The manner in which the Estate Management Scheme was set up means that the committee cannot take legal action against the Church Commissioners and therefore the current legal action is being undertaken personally by Haydn Turner. It has been suggested by Janice Northover that the more names that are added to the legal action the more it could help the case. Kenneth Ibbett, Mel Altshuler and Ian Callan all agreed to add their names to the case.

Janice Northover is currently reading through the papers on the case and will give her opinion in the coming weeks as to whether to continue pursuing the case or settle although she has indicated that she believes the case should be pursued.

Counsel's opinion was obtained in January 2017 and he believes that Haydn has a strong case against the Church Commissioners.

Sam Necker who is a solicitor asked what the basis for the case was and Aaron Landeryou explained that as the Church's agent had paid 11 continuous years of garden charges that it was counsel's opinion that this was a case of estoppel whereby a contract was formed even though no formal contract was ever signed.

Aaron asked those present if anyone had any old papers which may throw light on this point. He is particularly interested in seeing any letters from Cluttons written from 1998 through to around 2005 which refer to garden rate percentages.

A court date of 2nd February 2018 has been set although the Church Commissioners' solicitors are in the process of trying to strike out the case.

Kenneth Ibbett explained that whether the case is won or lost the garden rate percentages will need to be updated but this cannot be done until an outcome has been reached on the case.

Any Other Business:

Haydn spoke about the Garden Party held in the summer. It is the position of the events committee that they will not hold an event in 2018 summer but aim to have another in 2019.

There being no further business the meeting closed.