

Dear MKL Neighbors:

December 24, 2018

RE: **Whether to hire lifeguards** so that we may have a diving board and/or a raft

The MKL Association Board has asked for your guidance on this issue. The Beach Committee apologizes for the timing of this but if our community wants lifeguards, we need to act to hire as soon as possible. There is an extreme shortage of lifeguards.

As you know, we have been told by county and town officials that we may not have a diving board or raft at our beach unless we hire lifeguards. In order to bring you accurate information, the Beach Committee has made numerous calls and visits to the local authorities. Most calls have not been returned. Thus we are relying on information from the NJ state code that applies (see enclosed) as well as conversations with the NJ Board of Health in Trenton, life guard captains at the NJ shore, Drew University Athletics Department, the NJ Coalition of Lakes, etc. to put together the enclosed information packet.

It is clear to us, from the people who have been impacted by the 2018 code revisions (condo pool managers, lake managers, residents at other lakes, swimmers at the Y) that **the culture of our lake community will change if we hire lifeguards.** We've heard that we will lose the freedom to make our own individual decisions about how to use the lake. **The people most affected will be the residents of the 65% of homes without waterfront.**

Waterfront owners will have full freedom to swim, jump, dive, and boat as they wish. Beach goers will not. The parents of children who use the beach will lose the freedom to decide what their own children can do as they become more competent swimmers and boaters. **The beach will be closed more often than not.** Lifeguards call in sick or go off on a trip with their family. They quit because they're bored or in mid-August for college.

Please read these materials carefully. The first page is a summary. The remaining pages go into detail. If you still have questions, **after reading the material** please come to the...

Inform Meeting at the clubhouse at 7pm on Wednesday, January 9th.

If you are unable to come to the meeting **and have read the enclosed materials** and have questions, call Joan Fitzhugh at 1-973-598-5974 or email her at joancarol@aol.com.

HAVE YOUR SAY: On (or about) December 28th, you will receive a form attached to the proxy and ballot for the Annual Meeting that will ask you to respond: "Yes, I want lifeguards" or "No, I do not want lifeguards." **It is very important that you return that form.** THE BOARD WILL ACT BASED ON THE MAJORITY OPINION!

Beach Committee: Fred Luberto. Chair; Joan Fitzhugh; Roe Bowden; Barbara Coe; Nancy Witwer; Newton White

IF YOU ARE WILLING TO VOLUNTEER TO HIRE AND MANAGE LIFEGUARDS FOR OUR BEACH, please contact Joan Fitzhugh at the above number by January 13. As Lifeguard Manager you would report to the Beaches and Docks Chair.

| SHOULD WE HIRE LIFEGUARDS? | |
|--|---|
| PROS | CONS/PROBLEMS |
| <p>Allows a diving board Allows a raft</p> | <p>Lifeguard duties at MKL are complicated by small lake size. Ethically, who will they be responsible for?</p> <p>POTENTIAL NEW RESTRICTIONS:</p> <ol style="list-style-type: none"> 1. No swimming out of bathing area 2. Swimmers into bathing area from own dock must walk home. 3. No boats may be kept at beach. 4. No boating to beach from private docks. 5. No jumping out of boats. 6. No swimming from private docks within sight of the lifeguard (too far away for rescue) 7. Parents lose right to determine what their kids can do. |
| | <p>Need a volunteer from MKL to be the LIFEGUARD MANAGER to:</p> <ol style="list-style-type: none"> 1. Find and hire; vet credentials 2. Keep records of hours worked; pay 3. Find subs 4. Notify community when beach is closed; patrol 5. Monitor lifeguard performance daily 6. Provide lifeguard equipment/uniform. |
| | <p>Need 2 LIFEGUARDS HIRED</p> |
| <p>ADDITIONAL PROBLEM</p> <p>DUES INCREASE: Once lifeguards are hired, cannot go back to unguarded situation. Costs can be absorbed in the budget for the first year. Second year would require a 2/3 vote of the Association Membership to raise the dues.</p> <p>LIFEGUARD MANAGER? If no MKL resident volunteers to manage the lifeguards and we have to hire one, we will have an additional dues increase. This job cannot be done by the Chair of Beaches and Docks as that job is already time consuming.</p> <p>TOTAL PROBABLE DUES INCREASE: IN EXCESS OF \$400 PER HOME</p> | <p>NEED ONE PERSON CERTIFIED IN STANDARD FIRST AID AND PROFESSIONAL LEVEL INFANT, CHILD AND ADULT CPR on site when beach is open</p> |
| | <p>Shortage of life guards (the Y has had to close two lanes of its pool because it can't find lifeguards).</p> |
| | <p>Short season availability – most lifeguards are college students who quit in mid-August.</p> |
| | <p>Cost: 1 lifeguard for 8 hours/day and 7 days for 14 weeks at \$15/hr = about \$13,000.</p> |
| | <p>Additional expenses: Need to provide: lifeguard chair, landline phone with line run underground to lifeguard chairs, megaphone or whistle, uniforms/emblem, insurance, workers comp</p> |
| | <p>LIABILITY: increases liability for MKL residents</p> |
| | <p>Closing beach: May need to erect a chain link fence to close beach when lifeguards not on duty.</p> |

BATHING AT MT. KEMBLE LAKE

WHO ARE WE ACCOUNTABLE TO?

The bathing use of our MKL beach and lake is regulated and proscribed by several authorities including: 1) the NJ State Code cited below, 2) the Morris County Department of Law & Public Safety (Office of Health Management) and 3) the Harding Township Board of Health.

The latter two agencies have some discretion in the interpretation of the NJ code. They also have power to set their own additional requirements.

The following section of definitions is extracted from the NJ code cited below, which was revised in 2018:

NEW JERSEY STATE SANITARY CODE CHAPTER IX PUBLIC RECREATIONAL BATHING N.J.A.C. 8:26

Authority: N.J.S.A. 26:1A-7 & 26:4A-7 Effective Date: January 16, 2018 Expiration Date: January 16, 2025

CODE DEFINITIONS:

"Bathing beach" means the designated area of a natural or artificially constructed pond, lake, stream, river, bay, tidal waters, ocean or other body of fresh or salt water, which is used for bathing and swimming purposes together with buildings, equipment, and appurtenances, if any, and the land areas used in connection therewith.

"Diving area" means that portion of a swimming pool which is eight feet forward of the tip of the diving board, eight feet behind the tip of the diving board, and eight feet to each side of the diving board. (This is cited in a later section concerning waterfronts like MKL as applicable).

NOTE: The next two definitions are confusing due to the uses of the words public and private. The word "private" in this document is used to distinguish between commercial and non-commercial. It is **not** being used as the opposite of "public" (see the definition of "specially exempt facility").

"Private lake/river/bay or private community lake/ river/bay association" means an organization of property owners within a fixed or defined geographical area with deeded or other rights to utilize, with similarly situated owners, various lakefront, riverfront, or bayfront properties, which said properties are not open to the general public, other than bona fide guests of a member of the private lake/river/bay or private community lake/river/bay association.

"Specially exempt facility" means a public recreational bathing facility that is:

1. A private lake, river, or bay or private community lake, river, or bay association, or private nonprofit common interest community that restricts the use of its lake, river, bay, or pool, as appropriate, to the owners of units thereof and their invited guests;.

[invited guests may include occupants or tenants who by affirmative designation by the specially exempt facility through bathing place rules, association rules and bylaws, and

lease agreements, are granted such status and corresponding responsibilities normally associated with that of an invited guest.]

MKL QUALIFIES AS A “SPECIALLY EXEMPT FACILITY”

HOWEVER, WE LOSE THE PRIVILEGES OF THAT STATUS IF WE HAVE A DIVING BOARD AND/OR A RAFT:

I. A LIFEGUARD must be on duty FOR THE BEACH TO BE OPEN.

II. WE MUST DESIGNATE A PERMITTED BATHING AREA:

NJ State code for swimming pools determines the lifeguard control area by square footage. NJ State code for bathing beaches such as ours only sets a requirement for number of lifeguards by **waterfront footage**. However we are required to mark the bathing area being guarded by ropes or buoys. The size of that area would be determined by the Board.

- **A lifeguard is responsible for anyone within that area.**
- **The area being guarded is determined by the distance he/she can reach in a timely manner for rescue.**

III. WE MUST HAVE A BEACH SUPERVISION PLAN: “Each bathing beach shall establish a written standard operating procedure aquatics facility plan... (that)... shall contain information including... **responsibilities of all lifeguards.**” (NJAC 8:26-5.10).

FACTORS TO BE CONSIDERED IN CREATING THAT PLAN: the small size of our lake complicates the issue.

- A. **Lifeguards are trained to perform their duties under a moral code of rescue and the preservation of life** (similar to EMTs, nurses and doctors).
- B. In most beach situations, lifeguards are given the responsibility for anyone they can see (and in some cases, hear).
- C. MKL is so small that lifeguards can see docks on the opposite side of the lake. They can see boats and paddle boards passing the bathing area. They can hear activity at adjacent docks.

HOW CAN WE TELL A LIFEGUARD TO IGNORE SWIMMERS AND BOATERS THEY CAN SEE (and hear)?

1. THUS POTENTIAL RESTRICTIONS WE MAY NEED TO MAKE, based on the above:

- a. No swimming from the beach out of the area marked by ropes or buoys. The lifeguard can't be expected to judge each person's swimming ability.
- b. Swimmers to the beach from other docks or boats would need to walk home. The lifeguard can't be expected to remember who swam in and is thus capable of swimming out safely.
- c. Boats would be removed to the Fishin' Hole or private docks.

- d. No boating to the beach.
- e. No jumping out of boats within sight of the lifeguard.
- f. Parents would lose the right to grant permissions to their children that they have the freedom to now.

D. PARENTS REMAIN RESPONSIBLE FOR THEIR CHILDREN: THE STATE REQUIRES THAT ALL CHILDREN UNDER THE AGE OF 16 BE ACCOMPANIED BY AN ADULT. LIFEGUARDS ARE NOT BABY SITTERS!

IV. LIFEGUARD HIRING ISSUES:

1. NEED A MANAGER TO:

- find, vet and hire
- keep track of hours worked
- pay (and cover workers' comp and insurance if applicable)
- monitor lifeguard performance daily
- find subs
- close the beach when lifeguard not available (post sign and notify all residents).

PROBLEMS:

- **There are no lifeguard management companies for lake lifeguards.**
- **Which MKL residents will volunteer for this job?**
- **Who will enforce the beach closure?**
- **After 2018 revisions to NJ public bathing code, the Somerset Y has had to close two lanes in its pool because it can't find enough lifeguards.**
- **Local town pools have had to close mid-August due to college-age lifeguards returning to college.**

2. NUMBER OF LIFEGUARDS NEEDED:

- One for under 100' of shoreline. 2 for more. Our shoreline, if dredged for diving off the dock (without a diving board) is between 160' to 200.'
- **At least two on hire even for minimal shoreline.** Second one covers first one's days off and sick days.

3. LIFEGUARD PAY:

- Lifeguards in this area have been paid \$12-15 an hour. With the shortage, they will demand top dollar.
- Memorial Day to Labor Day is about 14 weeks. One lifeguard from 11am to 7pm (8 hours) for 7 days a week for 14 weeks at \$15 would cost about \$12,000. With Worker's Comp, \$12,720.

4. IF WE HAVE LIFEGUARDS, WE MUST ADDITIONALLY PROVIDE AND PAY FOR:

1. raised lifeguard chair \$350+
2. landline telephone at the lifeguard chair (this would require running a line underground); about \$1,500.
3. megaphone or whistle
4. lifeguard uniform or emblem
5. insurance

6. workers' comp: if lifeguard pay is \$15 an hour, the hourly cost to MKL with WC will be \$15.90.
7. more rescue and first aid equipment

5. CLOSING BEACH:

If we have a lifeguard, **we have to CLOSE THE BEACH when the lifeguard is not on duty.**

- Who at MKL will enforce this?
- If people are found in the water by the authorities when the beach is "closed," the beach will be closed for the rest of the season. **This may mean erecting a chain link fence around the entire beach area.**

6. WE ALSO ARE REQUIRED TO HAVE:

On duty when the beach is open, **ONE PERSON CERTIFIED IN STANDARD FIRST AID AND PROFESSIONAL LEVEL INFANT, CHILD AND ADULT CPR** available in "reasonable proximity to the bathing beach...and able to render assistance in a safe and timely manner." If the lifeguard is qualified in these areas, an additional person is not required.

WAIVER REQUESTED: The NJ code provides instructions for applying for a waiver of the requirement to have lifeguards if there is a diving board or "...**other recreational appurtenance** that may present an increased safety risk or hazard."

The Morris County Board of Health has determined that our raft is unsafe. In fact, our present raft does not meet the safety standards required by the state. However, we have been told that even if we have a raft that meets the standards, it will still be considered risky and we would need to hire lifeguards.

Since the latter was a local judgment call, **we decided to apply to the state for a waiver for a raft** that complies with the code. It is only through the state that a waiver can be obtained.

The chances are slim that we will be granted the waiver as we have been told that, so far, none have been granted. But we felt it was worth the try,

The waiver request to install a raft that meets the state standards without being required to hire lifeguards was mailed to the State Department of Health on December 21st.