

# Michigan Hill Owners Association

## Minutes

### BOARD OF DIRECTORS MEETING

August 28<sup>th</sup>, 2011 at 1:30 p.m.

1. The Board of Directors meeting for MHOA was CONVENED at 1:35 p.m. August 28<sup>th</sup> at Jefferson Community Center. Board members present were Fred Depenbrock, Patrick Strong, Jerry Clinton, and Sallie Baker. It was established that we had a quorum since only one Board member was absent due to her previous resignation. MHOA members attending were: Judy O'Neill, Terry O'Neill, Dennis Sherman, Mark Matulik, Ken Baker, Marilyn Dean, Jerry Dean, Diane Hazlett, Dave Hazlett, Jerry Cole, Wortley Cole, Tom Clinton, Jamin Ramirez, Mary Thomas, Greg Thomas.
2. APPROVAL OF MINUTES: The minutes for the July 16<sup>th</sup>, 2011 Board of Directors meeting were submitted for approval. Jerry Clinton moved that the minutes be approved. Fred Depenbrock seconded the motion. The motion passed.
3. OPEN FORUM: Concerns were brought up by the following members of MHOA during the Open Forum: Dennis Sherman (mowing north entrance), Tom Clinton (closure of north entrance), Ken Baker (concern about North entrance), Dennis Sherman (connection between county's clearing CR35 and keeping north entrance open), Jerry Dean (paperwork not available), Terry O'Neill (making on-line agenda for board meetings more specific), Ken Baker (constructing a shed for grader), Jerry Cole (against constructing a large barn, question about positioning the grader). The Board addressed some of the concerns during the meeting. Others will be put on the agenda for "new business" at the next Board of Directors meeting.
4. OFFICER'S REPORTS: FRED DEPENBROCK, PRESIDENT reported that we have received one resignation from our Vice-President, Diana Johnson; and three resignations from the ACC committee, Traci Bailey, Emily Sherman, and Jennifer Castleberry. Sallie Baker moved that we accept "with regret" the resignations of Diana Johnson, Traci Bailey, Emily Sherman, and Jennifer Castleberry, and appoint Carol Smusz to be the new Board member, with Jerry Dean, Dave Hazlett, Ed Ort as new appointees for the Architectural Control Committee. Jerry Clinton seconded the motion. The motion passed. Sallie Baker reported that Carol Smusz has indicated a preference to take on the job of secretary for a one-year term. Sallie Baker will then take on Vice-President so she can conduct the Board meetings in Fred's absence, and will serve out a two-

year term. All Board members attending agreed to the preceding changes of officers. Fred also reported that he is collecting information regarding wells, water augmentation, building permits, etc. He is also organizing the "records" for MHOA and hoping to find a way to store files in a safe place. Patrick Strong offered to convert all of the important documents into electronic form. Patrick will get a quote on the cost. PATRICK STRONG, TREASURER, reported that only three MHOA members have not paid their dues for 2011. One of those members is deceased. Patrick also brought all the financial records for MHOA since 2008 from our bookkeeper, Loretta Hubert. Patrick reported that Loretta keeps her records on "quick books". The records are to be reviewed by Susan Kasper, of Mountain Professional Bookkeeping, as directed by the Board on July 21<sup>st</sup>. Patrick also reported that 67% of our \$47,000 operating budget goes to road maintenance. At this point we have \$4,000 to \$8,000 extra in the budget leftover after the amount we need for our roads. So, Patrick said we have about \$2,500 that could be considered as a surplus. There was a discussion of the reimbursement policy for gas on MHOA's work day. Sallie Baker moved that MHOA no longer reimburse fuel costs for Work Day on Michigan Hill. Jerry seconded the motion. The motion passed. Terry O'Neill pointed out that the by-laws state that Board members can be reimbursed for their expenses. JERRY CLINTON, AT-LARGE BOARD MEMBER, reported on the difficulties she has encountered with MHOA's grader. On July 31<sup>st</sup>, she got a complaint from an Owner concerning wash boarding on Georgia Pass. At that point, she had not been given a key to the grader from the former Board of Directors. So, she got M&M to use their master key to make her a copy. Next problem was that the grader had three flat tires. So, after getting estimates, Tom Clinton found the best estimate in the yellow pages to be \$457 per new tire plus the cost of getting someone to come up and change the tires, for a total cost of \$1,866.34. Jerry will get a committee of experts together soon to consult with her on the improvements needed for our roads. Fred asked Jerry about insurance for our grader and stated that the operator is suppose to carry his own policy. Jerry will look into this issue with Mark Price who has the contract to operate our grader currently. SALLIE BAKER, SECRETARY reported on the work by her committee to rewrite our articles, covenants, and by-laws to be in compliance with Colorado Common Interest Ownership Act or CCIOA. The committee met on August 3<sup>rd</sup>, August 11<sup>th</sup>, and August 26<sup>th</sup>. All meetings were posted on our community bulletin board and were open to all members. Since Mark Matulik is highly qualified and has worked with regulations during his tenure with the Denver Water Board, the first motion is to formalize his leadership and rename our committee. Today, Mark Matulik will present and explain all six of our proposed motions using Power Point so that all of our members can see the motions as we discuss them. All motions are being offered by Sallie Baker, MHOA Board Member.

**Motion No. 1:** The MHOA Board of Directors hereby formally establishes a **Regulations Committee** with the following duties and responsibilities: Revise and improve the current Declaration, Covenants, By-Laws, Guidelines and other applicable association documents to be in compliance with all of the applicable requirements and standards set forth in Colorado Senate Bill 2005-100 and Senate Bill 2006-89 Revisions—also known as the Colorado Common Interest Ownership Act (CCIOA).

Furthermore, the Regulations Committee shall conduct regular meetings with the following members: Sallie Baker, MHOA Board Delegate and Project Manager; Mark Matulik, Committee Chair; Diana Johnson, Committee Member; Carol Smusz, Committee Member; Dave Hazlett, Committee Member; and Jerry Dean, Committee Member. Additional Committee Members may be added by a 2/3 acceptance vote of the existing Regulations Committee, on an as-needed basis.

In addition, the Regulations Committee meetings will be advertised, with as much advance notice as possible on the MHOA website and bulletin board to encourage participation and input from the MHOA membership. Motion 1 passed.

**Motion No. 2:** The MHOA Board of Directors hereby directs the Treasurer, working with the MHOA Member-At-Large, to develop a **Contingency Plan** that shall address 1) ongoing maintenance of the association's road grader, 2) possible purchase of a new grader, if necessary, and 3) establishment of a special fund for the activities listed in 1) and 2). Said plan will have a 5-10-year planning horizon. In addition, funding to support grader maintenance or replacement will be established from any of the following sources: 1) MHOA annual budget derived through regular assessments, 2) existing reserve fund, and/or 3) special assessment.

Furthermore, the first draft of the Contingency Plan, for review by the Board of Directors and the membership-at-large, is due no later than 11:59 on December 1, 2011. Patrick made an amendment to change the due date for the contingency plan to Feb. 15<sup>th</sup>, 2012. Motion 2 passed with the amended due date of Feb. 15<sup>th</sup>, 2012 instead of Dec. 1<sup>st</sup> 2011. The motion passed as amended.

**Motion No.3:** The MHOA Board of Directors hereby agrees to conduct business, as applicable, based on the principles, standards, regulatory requirements and guidelines set forth in the Colorado Common Interest Ownership Act (CCIOA). Such conduct will govern the official activities of the MHOA Board of Directors until said changes (required by CCIOA) are officially adopted by at least 67% of the MHOA membership either at the next annual meeting in June 2012 or sooner by Special Meeting.

Furthermore, the MHOA Board of Directors adopts the following policy and directs the Secretary to assure compliance:

The association shall make the following information available to owners upon reasonable notice, but at a minimum of 10 days. In addition, if the association's address, designated agent, or management company changes,

the association shall make updated information available within ninety days after the change:

- (a) The name of the association;
- (b) The name of the association's designated agent or management company, if any;
- (c) A valid physical address and telephone number for both the association and the designated agent or management company, if any;
- (d) The name of the common interest community;
- (e) The initial date of recording of the declaration; and
- (f) The reception number or book and page for the main document that constitutes the declaration.

Within ninety days after the end of each fiscal year, the association shall make the following information available to the owners upon reasonable notice.

- (a) The date on which its fiscal year commences;
- (b) Its operating budget for the current fiscal year;
- (c) A list, by unity type, of the association's current assessments, including both regular and special assessments;
- (d) Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- (e) The result of its most recent available financial audit or review;
- (f) A list of all association insurance policies, including, but not limited to, property, general liability, association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insureds, and expiration dates of the policies listed.
- (g) All the association's bylaws, articles, covenants and rules and regulations;
- (h) The minutes of the executive board and member meetings for the fiscal year immediately preceding the current annual disclosure; and
- (i) The association's responsible governance policies adopted under section 38- 33.3-209.5.29 of the Colorado Common Interest Ownership Act.

To achieve compliance, all information listed above will be posted on the MHOA website and community bulletin board, as applicable.

Motion 3 passed, unchanged.

**Motion No. 4:** The MHOA Board of Directors hereby commits to continuing to work with Park County and private ownership interests to resolve the issue of rights-of-way and/or easement access to the MHOA water augmentation pond. Based on best available information, and if necessary, the MHOA Board of Directors and/or its representative(s), will develop a strategy to reconcile any issues which might prevent the MHOA from gaining access to the pond. Furthermore, the strategy may include: 1) an easement agreement or purchase from property owner Hack who presently owns an easement which accesses the pond, 2) securing the services of an attorney specializing in real estate law and establishing the MHOA's right of access due to the length of time that the current easement owned by the Hacks has been in existence (18 years or greater), and/or 3) new road construction along an easement already established for the

MHOA to access the water augmentation pond. There was an amendment to the motion by Patrick Strong, suggesting that we add the words “and other easements” to the end of the first sentence of Motion 4 so that the first sentence reads “ ...to the MHOA water augmentation pond and other easements.” Patrick also included in his amendment that we strike the entire second paragraph starting with “Furthermore... and ending with...water augmentation pond.” Motion 4 passed as amended.

**Motion No. 5:** On December 1, 2007, the MHOA By-laws were revised regarding camper, trailer and motor home use. The revisions were ratified at the next annual membership meeting in August 2008. Those revisions state that for unimproved lots, campers, trailers and motor homes “must be pulled in and out with use”. For improved lots, owners must store “such vehicles in treed areas”, “adjacent to or within a structure” and “avoid constituting a nuisance to the neighborhood” (Section 9.b.)

Based on guidance set forth in the Colorado Common Interest Ownership Act (CCIOA) and to provide operational clarity, the MHOA Board of Directors provides its membership the following guidance regarding camper, trailer and motor home use:

When the MHOA Board of Directors is notified of non-compliance with Section 9.b. of the currently effective By-Laws dated December 1, 2007, the following actions will be taken.

Step 1 – A certified return/receipt letter will be sent to the Owner’s most current address notifying them of non-compliance with Section 9.b. of the MHOA By-laws and that to be in compliance they must either 1) “be pulled in and out with use”, or 2) store “such vehicles in treed areas”, “adjacent to or within a structure” and “avoid constituting a nuisance to the neighborhood”. The Owner will also be notified that they must come into compliance within 14 days from receipt of the letter which notifies them of non-compliance.

Step 2 – After the 14 day period has elapsed, the MHOA Board of Directors will visit the property in question to determine if compliance has been achieved or if non-compliance is continuing.

Step 3 – If the Owner has not complied with the MHOA Board’s request to remedy the violation, a certified return/receipt letter will be sent to the Owner’s most current address notifying them that a lien will be placed against their property.

Step 4 – A lien, as provided by law, will be filed by the MHOA Board of Directors or their authorized representative against the subject property in violation of Section 9.b.

Step 5 – Thirty (30) days following filing of the lien, a certified return/receipt letter will be sent to the Owner’s most current address notifying them that legal action will be taken to remove the vehicle(s) in violation from the subject property and that the Owner will be billed for 1) costs for removing the vehicle(s) in violation, and 2) for all associated legal fees including but not limited to attorney fees, filing fees and court fees. Motion 5 was made and seconded, but there was extended discussion and debate regarding the original by-law, 9.b., passed on Dec. 1, 2007, and the fairness of asking that campers etc. be hidden behind trees,

especially if an Owner has no trees. Mark Matulik mentioned that we may need to develop a “definitions section” for some of the terms used in our regulations and amended by-laws. Several Owners spoke for and against the motion which gives needed enforcement to a by-law MHOA already has. Sallie Baker moved that we table motion 5 for the next MHOA Board of Directors meeting in anticipation of ratification by the membership at the next annual meeting. Jerry Clinton seconded the motion. The motion was tabled and will be taken up as “Old Business” at the Board of Directors Meeting on December 3<sup>rd</sup>, 2011. It will be listed on the Agenda for the meeting.

**Motion No. 6:** Based on guidance set forth in the Colorado Common Interest Ownership Act (CCIOA) and to provide operational clarity, the MHOA Board of Directors provides to its membership the following clear steps for penalties involving unpaid dues, late fees, service fees (mailing, copying, etc.), additional legal fees, or sending an Owner to collection:

Step 1: When an Owner is late paying MHOA dues, a reminder letter will be sent to the Owner’s address stating that the dues are 30 days past due. Please note, due to CCIOA requirements, late fees cannot be greater than 21% per annum (\$36 per year).

Step 2: When an Owner is late paying MHOA dues by 60 days, a certified return/receipt letter will be sent to the Owner’s address stating the amount of the fines per month, the total due, and informing the Owner that a lien will be filed against the subject property at six months, if overdue amounts are not settled. The Owner will also be notified that all legal fees, if necessary, will be added to amount owed.

Step 3: At six months, if dues and MHOA fees are still not paid, a certified return/receipt letter will be sent to the Owner’s most current address stating the amount due, and informing the Owner that a lien has been filed, because overdue amounts have not been paid.

Step 4: At one year, if dues are still not paid, the Owner will be invited by certified return/receipt letter to meet with the Board of Directors to arrange a payment plan. Before a lawyer is retained, the Owner will be notified that such action is pending.

Step 5: If an Owner continues to fall behind with dues payments for a period of five years, and no payment plan has been arranged or is not working, the Board of Directors shall inform the Owner of their right to a “public hearing” before sending the subject property to collection.

Step 6: If past due amounts are not resolved at the public hearing, an Owner shall be sent to collection. Motion six passed.

5. OLD BUSINESS: There were no motions from previous meetings that had been tabled, so there was no old business.
6. NEW BUSINESS: The new business was introduced during the “committee reports.
7. ADJOURNMENT: The meeting adjourned at 4:35.

Respectfully submitted,  
Sallie Baker, secretary