

DELAWARE MANUFACTURING HOME RELOCATION AUTHORITY

1675 S. State Street
Dover, Delaware

Minutes of August 10, 2011

IN ATTENDANCE:

Authority: Richard Lemire, Chairman
Terri Rock
Ken Fuchs
Derek Strine
Caron Thompson
Joanne Agostarola-via phone
Brian Posey
Fred Neil

Excused: Charles Clark
Ed Speraw, Compliance Investigator

Legal Counsel: William Denman

Other Attendees: Scott Sipple, Accountant
Charles Robinson, Citizen
Ross Cropper, Citizen
Lydia Prigg, Board of Commissions for the Governor
Lauren Pearce, Board of Commissions for the Governor

I. CALL TO ORDER:

Mr. Lemire called the meeting to order at 1:06 p.m.

II. REVIEW AND APPROVAL OF MINUTES:

Mr. Lemire made a motion to accept the minutes from the May 17, 2011 meeting. Ms. Thompson seconded the motion.

The minutes were approved by all members present by voice vote with the following changes: Mr. Strine was quoted as having said that Mr. Strine believed that if the Board is changed dramatically that would be a waste of all of the Board's efforts. Mr. Strine actually said depending on how the Board is appointed if it is biased one way or another that it is for naught, if it is a balanced approach as this Board is, than it is okay.

Mr. Lemire thanked Mr. Strine for that clarification.

There being no further discussion, all of the members of the Board present voted in favor of approving the May, 2011 minutes, as amended by Mr. Strine.

III. OLD BUSINESS

A. COMPLIANCE INVESTIGATORS REPORT:

Mr. Lemire stated that Mr. Speraw was out working today. Mr. Lemire stated instead of going out helter-skelter to find communities that are not registered, Mr. Lemire has set up a system of grouping the communities by city and zip code. Mr. Speraw goes to the communities and counts the number of occupied and unoccupied lots. Mr. Lemire stated his belief that lots that are rented, even if they are not occupied at the time, should be subject to the assessment. In such cases, the tenant may be paying the assessment as part of the rent

Mr. Strine stated as an operator, he doesn't have a single mobile home dealer paying lot rent. There are 4,000 empty lots in the counties he operates in. Mr. Strine said in the old days the community owner used to get a dealer to reserve a lot to put a home in, but that was when things were really tight, so how could we possibly have a point of reference? Mr. Strine stated that if we are the homeowner and own it, there is no lot rent.

Mr. Lemire agreed, but states there is a weakness there. The only way is to look into their books and see what rents they collect. We have no way of verifying what is being submitted.

Ms. Rock stated that Mr. Speraw used to answer to Mr. Strine and two other people on the Board. That committee assigned him which communities to inspect and when to inspect them. All of a sudden Mr. Speraw decided that he could do a better job and went out on his own. The committee was never dissolved, but he didn't answer to the committee, which he should have done. The committee would have reported to the Board, that's how it was set up initially. Mr. Speraw went out into the communities and counted each home on the lot. There were discrepancies and we sent out letters to the community owners which Mr. Strine was one of them that were questioned. Mr. Strine replied to the letter stating that he had so many units that he owned and he gave the lot numbers, so many units were for sale or were rented. That's how we went. We don't need to do that again.

Mr. Lemire interjected and said he understood and said a lot of this happened before he came on Board. Ms. Rock stated that this was true, but the Board is there to help Mr. Lemire.

Mr. Lemire said we are trying to tie into the auditor's report which is what really is the entity that we are trying to address now. We want to do it differently, but the auditor's report from Santora stated that everything was fine except for that weakness.

Mr. Lemire thought we had talked about this before. Are we planning on having a meeting with the Auditor General's office? Ms. Rock stated she believes that this Board needs to sit down with the auditor and explain these things to the auditor. Mr. Strine believes that we will not be able to convince the auditor.

Mr. Neil stated we operate on an honor system and the only way that you can have some semblance of accountability is by having a Compliance Investigator come up with a number. When that number comes to the Board as a whole, then the letter goes out and they can say yes it is correct or no it is not. We know that some people are complying and some are not. Obviously Mr. Speraw has caught somebody that hasn't obeyed the law since 2004. When you look at the report we get from Christine Hambleton, at the top it says x number of people have moved or not paid, we must accept this at face value. The only check we have is what Mr. Speraw reports. By grouping Mr. Speraw's inspections in certain areas it saves mileage and money. Mr. Neil stated then it becomes a discussion between us and Tom Wagner to take a look and what he proposes.

Mr. Lemire stated that the audit is statutory and we are complying with the statutes.

Mr. Sipple stated this is the way the State of Delaware operates their comprehensive annual financial reports when the State deals with income taxes on a self-reporting income mechanism. Our role is to put our best estimate forward. We said what the issue was, disclosed it in our financial statement. How far the auditor wants to take it is really up to them. You can't reasonably estimate your position on receivables. The auditor has a responsibility to go out to the lot owners and confirm directly if their report is true. The auditor also has the responsibility to opine all your financial statements whether they are fairly represented. When the auditor's office first started doing the audit the question arose as to how do you know you have a complete list of communities? It was all in its infancy and growing along. We are 95% -98% there, there is no way to get to 100% unless you physically send someone out there and inspect each community. Mr. Sipple said he would get the auditor, auditor's office and the members of the financial committee in a room together and explain the situation to them. We need to talk about this as a group first. This needs to happen before the new Board takes over.

Mr. Lemire stated that this is another reason why Ms. Prigg is coming today.

B. FINANCIAL REPORT:

Mr. Sipple stated with the interest rates so low, the money in the Trust Fund gains about \$1800 interest a month.

Ms. Agostarola asked what interest rate the RTA was getting on the Trust Fund and Mr. Sipple stated that the RTA receives the overnight rate. Mr. Sipple stated that we brought in \$154,000 in July for quarterly deposits. We have collected over 5 ½

million in assessments and have only paid out about \$572,000 in relocation benefits. This month we have only spent about \$4,000. With the pending audit Mr. Sipple believes the amount will go up. The auditor's office has dropped the audit fee from \$14,000 to \$13,000

Mr. Sipple stated that we have about \$25,000 in the operating account. He also stated that Lisa Meixell has left the accounting firm and has been replaced by Joanne Kent. Mr. Lemire stated that Ms. Meixell always sent him updates on the operating funds, so he could keep an eye on it when it was running low. It takes about 10 days to get a check deposited into the account. At its peak times we need about \$15,000 a month, as our expenses are not fixed and can vary depending on for example legal fees. We are at the point now where we are working on enforcements.

Mr. Sipple stated that his company would like to see their contract renewed for another year. The rates would stay as they are now. Mr. Sipple asked how the Board would like to handle this? Mr. Lemire stated that he believes the new Board is going to have their hands full trying to catch up on a lot of things. Mr. Lemire suggested that we discuss this issue during the September Board meeting. Mr. Denman stated that Mr. Sipple's firm should submit their proposal at the September Board meeting as the Board still has the power to adopt it. He asked if the current Board really wanted to make that decision and lock the incoming Board into some future type deal, to him it was not a legal, but rather a political issue. Why should we be committing the future Board, unless we have too? Mr. Lemire asked what happens if the new Board comes in and wants to put out a bid? He thinks we might be looking at much higher rates and he is just looking out for the RTA. Mr. Strine asked what if we asked both parties to accept a month to month contract for now? Mr. Denman stated that he doesn't believe Mr. Sipple will walk out if we don't renew the contract now. He stated as far as himself is concerned, he is here at the RTA's pleasure and he considers the arrangement terminable at the RTA's will. He doesn't think he needs to take action at his end. With the composition of the Board changing, the AG might have a designated member that might diminish the need for legal services significantly. Mr. Denman can only speak for the legal profession and the accounting issue is a totally different issue. Mr. Denman stated that he thinks that it would not be a good idea to replace the accountant who has been serving the RTA for several years and is willing to continue that service without any type of increase. Ms. Agostarola agreed that at this point we should put everything on a month to month basis until the new Board is formed. How are they anticipating the new Board to take place? Some members of the Board might stay on and some might not. Ms. Agostarola agreed that the Board should not make any major changes. Ms. Agostarola couldn't imagine that the new Board would not continue on with the current accounting firm and current legal firm. She doesn't think the Board should do anything else at the moment.

Mr. Neil stated that this was the point that he was making, that Mr. Strine and Ms. Agostarola made that if it is legally possible to ask them to continue until relieved by the next Board then they should do so, simply because it is the most effective and efficient way.

Mr. Lemire stated that he agrees that the Board needs some continuity. If all of a sudden a change of land use would come up for the new Board that would be tough to swallow.

Mr. Strine asked if the Board needed to make a motion on this or should it wait until the next meeting?

Mr. Lemire stated that he would really like to hear from Ms. Prigg first, coming from the Governor's office and that she should be here by 2 PM. Mr. Lemire stated that there could be some flex in there on how the Board change would be handled and he would really like to find out what Ms. Prigg will tell the Board.

Mr. Denman suggested that Mr. Sipple submit a proposal and it can be put on the agenda for the September meeting. The Board could then take it up at that point.

Mr. Sipple stated that he would send the proposal to the RTA.

C. FOIA REQUESTS:

Mr. Sipple stated that we have received another FOIA request from Pat Weyl, regarding Mr. Speraw's mileage reimbursement and payroll. Ms. Rock and Mr. Strine both said she had asked for that broken out. Mr. Sipple stated yes, that was correct, but he had forgotten to do that. Mr. Sipple keeps that on a regular task basis and reconciles the information that Ms. Sisco put together and approved Ed's mileage. Mr. Sipple stated that he has to make sure that this gets broken into the report for this Boards use only. He stated that what goes on the website is a separate report altogether. Ms. Rock asked what goes on the website, what do you put on there? He can put it on the website by position. Communities are a different matter as they are public record. Mr. Sipple stated he had to be careful with the information. Ms. Rock questioned aren't the employees of the RTA state employees? Mr. Sipple stated that they qualify for all the state benefits, but are not employed by the state. Ms. Rock then asked aren't there names and salaries posted? The RTA is a component of the state, but the employees don't get paid by the state or through the state's payroll system. Ms. Rock suggested not putting the employee's names on the website.

Mr. Denman stated that if we have been served with another FOIA request we need to respond to that. Mr. Denman had some comments that could be discussed during his Legal Counsel report. Mr. Denman stated that what you disclose on your website is one thing, what you produce in response of an FOIA request is totally different. Once you get a FOIA request your obligation to produce documents is quite broad. While there are certain things you don't have to produce such as an employee's SSN or their home address, their salary and identity are fair game. What you are paying in attorney's fees is fair game. This doesn't mean that the Board should post all this information on the website.

Mr. Neil stated if there is no objection, if Ms. Weyl wants that information, then we should provide that information. We have nothing to hide.

Everyone present agreed.

Mr. Lemire stated that if he is not mistaken, this is just an update to what was provided to Ms. Weyl a few months ago, wasn't it? Ms. Rock stated that Ms. Weyl's request was for salary, what did she ask for this time? Mr. Sipple stated that this time she asked what his mileage rate was versus his pay rate.

D. ADMINISTRATIVE REPORT:

Mr. Lemire stated that he would like to report that Ms. Lantz has done an outstanding job doing research on parcels, communities and property searches and has actually found a couple of communities that are not registered.

Ms. Lantz has stated that she is familiarizing herself with Chapter 70, Title 25.

Ms. Lantz has also closed the Post Office Box in Camden. There was no need to keep it as we have a mailbox in front of the office.

Ms. Lantz also stated that she updated the website and the letters reflect the change. Also since we had problems with Verizon we ended up getting a new email address, Ms. Lantz updated the letters again to reflect this.

Ms. Lantz stated that when she first started she noticed on the website that the RTA still had the old office address on there, 2 N. State Street and Ms. Allen's phone number. Ms. Lantz made the necessary changes.

Ms. Lantz also stated that she has started backing up the information on the computer to a writeable CD. Ms. Rock asked why not just plug something into the computer to back it up? Ms. Lantz stated that there was no USB port left to plug it into and that's why she bought a hub. Mr. Lemire stated that the \$20 hub solved the problem, even though we are still having a few glitches with it. Mr. Lemire stated that with regards to the Verizon problem, he cancelled the DSL line going to the fax machine as it was old technology and got a new DSL line going to the phone # and that's why we have a new email address. Ms. Rock asked if it was fixed now? Mr. Lemire stated that yes, it was fixed.

Ms. Lantz emailed the survey from the Sunset Review Committee to all the Board members, Bill Denman and Scott Sipple. Mr. Strine asked if anyone had done anything with it and the answer was no.

Ms. Lantz emailed everyone the financial reports for May, June and July.

Ms. Lantz has also started researching the communities that Mr. Speraw has found. Ms. Lantz stated that she is having trouble with this, as Mr. Speraw sometimes puts

locations where they don't exist or street names that don't exist, that makes it hard to follow up.

Ms. Lantz has also recreated the inspection sheet for Mr. Speraw.

Ms. Lantz sent out letters to all 19 tenants of Countryside MHP notifying them of the sale of the community.

Ms. Lantz sent out letters to all 45 tenants of Sussex Manor MHP notifying them of the sale of the community.

Ms. Lantz also sent out 29 delinquent letters to communities that are behind in payments.

E. LEGAL COUNSEL REPORT:

Mr. Denman reported that HB167, regarding recovery of attorney fees, has passed the House and has been assigned to the Senate Community/County Affairs Committee. That assignment was on June 30, 2011 and the bill will hopefully be taken up by the Senate when the Legislature comes back into session.

Regarding collection efforts, Mr. Denman reported that Ms. Lantz put together a packet of information relating to 5 newly discovered parks that have not been contributing into the Trust Fund. We were able to put together 5 civil complaints and initiate 5 separate lawsuits for collection on these 5 newly discovered parks with about one hour of attorney time per park. The total amount that we are attempting to collect for these 5 parks is about \$31,000. Things are not always what they seem and there might be a logical explanation why these parks have not contributed. We do not jump into court without first exhausting all our other efforts. Mr. Denman will let the Board know how these cases develop. It was very efficient how Staff was able to assemble these documents as opposed to Mr. Denman's firm trying to have to go out there and do it themselves.

Mr. Denman stated that everyone should have received the Sunset Review Committee Questionnaire. We need to respond to that by October 3, 2011. It is a very exhaustive questionnaire and there are certain questions that Mr. Sipple will have to address as they are financial questions. Other questions are legal that Mr. Denman can answer. There are also some general questions that perhaps Mr. Lemire and Ms. Lantz can answer. Ms. Rock states that some of these questions need to be answered by someone that has been on the Board since day 1. Mr. Denman agreed and stated that he has been there since the inception of the Authority. Mr. Denman suggested that we need to start assigning and dividing the responsibilities and that Ms. Lantz can be the gatekeeper so that we can respond to this in a timely fashion.

Mr. Denman stated this legal issue could wait for the next Board to be resolved, but he just wants to throw it out there. There are several parks that we have filed a lawsuit on and they are still not complying. You can only take a lawsuit so far in a court of law.

For some of these parks Mr. Denman believes the time has come to initiate an action in the Delaware Court of Chancery and obtain an injunction. An injunction is basically a court order that is issued to the owner of the park who is not filing his quarterly reports and providing that if the community owner does not start doing that, the court will hold the community owner in contempt. The owner of the park could be fined and receive a penalty for not complying. Mr. Denman stated it is one thing not to pay us, but it is another thing to just not comply with the Court order. The only court that has the Authority to issue that type of relief is the Court of Chancery. Mr. Denman believed it is time to send a message. Ms. Rock stated that she believed at one point in time there was talk that if it was lower than \$2500 than it wasn't worth pursuing. Ms. Rock believes it is somewhere in the past minutes, it was talked about that anything over x amount then you go and do what you have to do, but she doesn't remember the amount. Mr. Strine asked what is the cost involved? Mr. Denman stated that when you deal with the Court of Chancery it is a little bit more complicated. It is not a matter of sitting down for an hour and filing a complaint, you ask for a preliminary injunction, file affidavits, we would have to have Mr. Speraw file an affidavit and it could involve several thousand dollars; but sometimes that is what you have to do. Mr. Strine asked if it wasn't possible to get a judgment and sell some of their property? Mr. Denman stated that you can do that with a regular judgment and have the Sherriff levy some of their property. This is a Dollar and Cents point. Mr. Denman stated we are not only talking money, but about someone that is ignoring the law to the detriment of the residents of the community. If there is a change of land use and they have not contributed into the Trust Fund, there is no protection.

Mr. Neil asked at what point do these community owners break the law and have the Attorney General file some sort of criminal action?

Mr. Denman said he doesn't know that this is a criminal action but rather a civil action and he doesn't know when the Attorney General would be interested enough to do something about it.

Mr. Denman said he is just bringing this out for informational purposes, when the next Board is composed by statute they have a member of the Attorney General's office present then they can make that call. It might be easier to get the Attorney General to take a more active role in enforcing the statute. We have a handful of these parks that just getting a monetary judgment does not solve the problem.

Mr. Denman stated that the Authority received a FOIA request from Ms. Weyl and hat we will respond to this in a timely fashion.

Mr. Lemire asked do we have to send a paper copy? Is there any other way to make this available? Mr. Denman stated that we do have to provide them with access to the records and the easiest way to do it is to send it out to a copy center or have her come into the office and meet with Ms. Lantz, it is easier that way. Ms. Rock stated we could also send the copies certified mail with return receipt requested. Mr. Denman said she could also come by and pick it up. Mr. Denman said he would go over the records that Ms. Lantz has after the meeting.

Mr. Denman stated we also have received a claim for a refund for the Summertime and Lighthouse Park. These parks have contributed to the Trust Fund for quite some time. Summertime Park has contributed approximately \$14,000 and Lighthouse Park approximately \$7,488. We have yet to verify that the landlord has been contributing both the landlords and the tenant's portion.

IV. NEW BUSINESS:

Mr. Lemire stated that Summertime MHP and Lighthouse MHP have asked to be designated as a seasonal park.

Mr. Lemire introduced Mr. Russ Cropper, the owner of both parks.

Mr. Denman introduced himself to Mr. Cropper as the legal counsel.

Mr. Cropper stated that these payments have been made by mistake as the parks are seasonal parks. Seasonal parks are not subject to the assessment.

Mr. Denman noted that under our statute a seasonal property is a parcel of land operated as a vacation resort which has 2 or more lots rented for the place of a manufactured home that is used less than 8 months of the year. The statute also reads that a seasonal park has a lack of year round utilities and that its residents have primary residency elsewhere. Mr. Cropper has been kind enough to provide us with samples of his leases that state that the homes can only be occupied 8 months or less and utilities will not be made available year round. Mr. Denman stated he is not sure if this applies to both parks. Mr. Cropper stated that they purchase water from Artesian and when the water is cut off it is cut off. Mr. Cropper stated when everything is shut off it remains shut off. Mr. Lemire did the search on both parks and every homeowner on the lot appears to have a primary address somewhere else. Mr. Denman asked if the leases that were submitted are the leases from 2004 on? Mr. Cropper said that they are not. Mr. Lemire asked Mr. Cropper to please provide copies of the older leases that would help clarify the claim. Mr. Cropper also submitted letters from some of the tenants that live in both parks. Mr. Cropper has 4 signatures from tenants from Summertime and Lighthouse that state they never knew they paid into the fund or even knew that the fund existed. Mr. Cropper and Ms. Rock then discussed how the water is shut off and is there a way to confirm this. Mr. Cropper stated the tenants pay for their own electric. Mr. Cropper stated the parks open March 20 and close November 4. The water is turned on and people begin using their homes. Water is turned off November 5th.

Discussion followed.

Mr. Denman stated that the claim is on the table and decisions are going to have to be made what position the Board is going to take with respect to the claim for refund. The refund would be approximately \$22,000. Mr. Cropper stated his father started contributing into the fund and when Mr. Cropper reviewed it this year he realized that

they are a seasonal park. Mr. Lemire stated that Mr. Cropper has paid the same amount diligently since the beginning. Mr. Lemire sent the leases to Mr. Denman for review. Mr. Lemire stated that when you go into the parcel searches you get a billing address. That doesn't mean it is their primary address.

Mr. Denman suggested that Mr. Cropper put together back-up documents to support his statements. Mr. Cropper stated that's why he supplied the Authority with a copy of the lease of each park. Mr. Cropper then asked if the Authority really wanted a copy of the lease of all tenants? Mr. Denman suggested sending a copy of the front page of each lease for each tenant. Mr. Cropper agreed and will also send a list of all tenant addresses of all 102 tenants.

Mr. Denman also suggested that if he has a sample copy of his older leases that would be very helpful.

In Mr. Strine's opinion, for the record, the park does qualify as a seasonal park

The Board thanked Mr. Cropper for coming to the meeting.

EXECUTIVE SESSION:

At 2.30 p.m. Mr. Strine made the motion to go into Executive Session to discuss the issues of Summertime and Lighthouse Park and also personnel matters. Mr. Neil seconded the motion.

Unanimous approval was given by all members present by voice vote.

At 2.52 p.m. Mr. Neil made the motion to come out of Executive Session. Mr. Fuchs seconded the motion.

Unanimous approval was given by all members present by voice vote.

F. LYDIA PRIGG /HB62 REDUCTION OF BOARD

The members present introduced themselves to Lydia Prigg and Lauren Pearce from the Governor's Office.

Mr. Lemire stated that Ms. Prigg was here to help the Board understand HB62 with the transition from 9 members to 5.

Ms. Prigg stated that she has been in her position almost 12 years and deals with Board reductions frequently. Ms. Prigg likes to work close with the current Board members to make sure that the transition is smooth. Everyone that served under the old Board will get a letter from the Governor thanking each individual for serving on the Board. Anyone from this Board that is willing to serve on the new Board should

apply. Ms. Prigg had the new application forms with her and will hand them out to everyone. Ms. Prigg stated that the Governor likes diversity on the Board. This reduction is a little different, as you normally have a term or you serve at the pleasure of the Governor. With this application you serve at the pleasure of the appointing Authority, but there is also a term.

A question and answer session with Ms. Prigg followed.

Ms. Prigg stated that the bylaws will be re-written by the new Board. Mr. Lemire asked when the 9 Board members are eliminated will the new Board take over? Ms. Prigg responded that she will do her best to make that happen, but it might overlap for a little while. Ms. Prigg stated they will call each Board member and let them know of the new appointment at such and such date. She suggested the old Board attend the first meeting of the new Board and talk to the person that represents you and give them any assistance that you can.

V. ADJOURNMENT:

The next Board meeting has been scheduled for September 14, 2011 at the office of the Authority at 1675 S. State Street, Suite E, and Dover, DE 19901.

As there was no further business before the Board, the motion was made for adjournment by Ms. Rock and seconded by Mr. Strine. After unanimous approval from the members present, the meeting was adjourned at 3:40 p.m.

Respectfully submitted,

Susanne Lantz
Administrative Assistant