

DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY
1979 S. State Street
Dover, DE 19901

Minutes of the June 8, 2023 Board Meeting

IN-ATTENDANCE:

Authority: Mitch Crane
William Dunn
Andy Strine
George Meldrum
Richard Hrycyshyn
Patrick Malone (Non-Voting Member)

Gregory Sutton (Executive Director)
Jane Sabo (Assistant to the Executive Director)

Legal Counsel: Melissa Rhoads

Other: Jen Allen - FSMHA
William Kinnick - DMHOA
Devon Valdesere – Pine Haven
Sam Saunders – Donovan Smith HOA
Carol Parsons – Donovan Smith HOA

I. Call to Order – 1:30 P.M.

Mr. Crane called the meeting to order at 1:30 p.m. All members were present.

II. Review and Approval of Minutes:

A motion was made and seconded to approve the May 11, 2023 meeting minutes. The motion passed 5-0.

III. Chair's Report:

- Mr. Crane attended a Donovan Smith HOA meeting in Lewes about two weeks ago. Those in attendance included Donovan Smith HOA board members, State Senator Huxtable, a county council member, a DNREC representative, and members of the community. Senator Huxtable and Mr. Crane toured the community with the DNREC representative who clarified some of the safety issues brought up by residents of Donovan Smith.
- Mr. Crane stated that he was hopeful that other HOAs would invite DEMHRA board members to attend their meetings so that they could get to see what the residents' concerns were first-hand.
- Mr. Crane continues to receive inquiries from the legislators on interpretations and suggestions for changes to SB 317. He expressed an interest in convening a meeting with the legislators, the DEMHRA board, representatives from the communities, and homeowners, to answer questions and give opinions on what changes may be necessary. This issue will be followed-up with the legislators.

IV. Executive Director's Report:

- It was discovered that the Chair's telephone number is incorrect as posted on the DEMHRA website. This has been corrected.
- We received a letter from Staples that our credit card will be closed on 7/31/23 as Citibank will no longer be

managing their account. Mr. Strine or Mr. Shopa (signatories for our WSFS account) will have to apply for the WSFS credit card. Mr. Sutton will prepare a letter for signature to issue the credit card. Per Mr. Crane, no vote is necessary since this was discussed at today's meeting and that is sufficient.

V. Legal Counsel Report:

- Matters still in active litigation are Hecker Properties, Kam Properties (old owner), and Bon Ayre.
- Matters that have been filed and resolved as they have brought their accounts up-to-date: Sussex Manor (new owner), Changing Fates, and County Seat Gardens.
- Demand letters sent since the last meeting:
 - Delaware City – No response. Ms. Rhoads advised that technically they have until June 10th to comply with her letter. Since that is only two days away, Mr. Crane suggested giving preliminary approval to sue if they do not comply by June 10th. A motion was made and seconded to file suit if they do not comply by that date. The motion carried 5-0. Ms. Rhoads will email the board with the status of payment.
 - Glasgow Court – Responded immediately and is going to pay
 - M&S MHP – Paid
 - Oak Grove Estates – Paid
 - Village of Grand View – Paid
 - Crossings at Oak Orchard – In process of setting up an on-line account
 - Minquadale – Per their attorney, they will be sending in their payment today
 - Blue Beach Bungalow is establishing their account so they can start making payments. They are still protesting that they are a seasonal park. They will be responsible for the back payments for those that are not disputed now but that fall under Chapter 70. The protest is that they should never have been permitted to have year-round tenants in the past. Mr. Crane added the protest should be settled in court, otherwise, the protest is duly noted.
- The concern is that with non-relocatable homes and non-moveable RV's, there may be a request for funding for demolition benefits from the owner. Giving demolition benefits to a community that hasn't registered or paid their assessment fees could be an issue.
- Oakway – Ms. Rhoads will follow-up with their attorney

VI. Approval of Financial Matters:

A. Recent Financial Activity & Report:

The May financial report has not been received. Mr. Sutton will email it to the Board upon receipt.

B. Approval of Invoices:

The May legal counsel invoice has not been received.

CIT Lease Rental for our copier in the amount of \$187.89.

CIT Lease Rental for our copier in the amount of \$90.77

L&W Insurance for Worker's Compensation Policy in the amount of \$233.00

L&W Insurance for Professional Liability Policy in the amount of \$2,291.00

A motion was made and seconded to approve all invoices collectively. The motion carried 5-0.

Of note, going forward per Mr. Crane, invoices for agreements or contracts with a vendor on a monthly basis will can be paid without ratification at a board meeting. Other invoices received that cannot be paid in a timely manner by the next board meeting shall be approved by Mr. Strine and Mr. Meldrum and sent to our accountant for payment. Those that are not time-sensitive can be presented for ratification at the next board meeting.

VII. Reports:

A. Compliance Matters (Executive Director):

1. Compliance Investigator Report:

Eleven (11) work orders were assigned to our compliance investigators this month and were completed. No deficiencies or anomalies were noted.

2. Community Owner Registration Update:

All of the parks that didn't turn in their annual registration forms have been audited. Mr. Sutton notified Ms. Jen Allen of the status. We will now be doing random audits.

3. Delinquent Parks Report:

All parks that were one quarter late on the Division of Revenue report dated 5/18/23 were sent an email reminding them that they are considered to be delinquent one quarter and should send in their payment. Any parks more than two or more quarters delinquent have been referred to our solicitor for legal action.

A motion was made and seconded to refer for legal action, those parks that were more than two quarters late. The motion carried 5-0.

B. Arbitration (Update on Status of Open Dockets):

Attorneys are contacted for updates prior to our board meetings.

Docket 04-2019, Wild Meadows HOA vs Wild Meadows LLC: Stayed

Docket 04-2020, Wild Meadows HOA vs Wild Meadows LLC: Update expected in June

Docket 01-2021, Shady Park HOA vs Shady Park MHC: Will be in court for months and CLASI will provide an update

Docket 02-2021, Ridgewood Manor: Awaiting decision from the judge

Docket 03-2021, Canterbury Crossing: - Update expected in July

Docket 04-2021, Pot-Nets Lakeside HOA vs Lakeside Community: Update expected in the fall

Mr. Crane requested clarification on the two Wild Meadows dockets. Ms. Rhoads surmised that Docket 04-2019 may have been stayed pending a decision on one of these other matters. Docket 04-2020 may be in Superior Court and she will follow-up on that as well.

C. Rent Increase Certification Requests (May):

Mr. Crane requested a report on the number of rent increase notices received in May to determine how it impacts our workload. For the month of May, there were 43 rent increase requests. Mr. Sutton explained that a lot of time is spent by two part-time employees and himself processing the rent increase requests. When rent increase requests are received, they are reviewed for accuracy. A violation letter (a signed certification that there are no safety violations), is sent to the community owner. Once returned to us, the CPI-U certification letter is prepared and signed by the Executive Director. The certification letter is sent back to the community owner. They cannot notify their tenants of the rent increase until at least 20 days from the date the request was sent to DEMHRA per the Code. They can do a place holder of the date in the sample letter, as long as it isn't sent before the 20 days. Community owners can request a rent increase 90 days in advance but no more than 120 days. The most recent published CPI-U must be used for rent increases.

Relative to the violation letter issue, Mr. Crane added that violations were discussed at the Donovan Smith HOA meeting with DNREC. A violation can be issued, even though not finalized and DEMHRA must be informed. A bill has been drafted and also requires that all state agencies and political subdivisions that issue violations are required to notify the DOJ and DEMHRA. He will provide an update on the bill but doesn't expect it will be discussed until next year.

Mr. Sutton had a phone call from a resident of Fox Point Village MHP, stating that their rent increase was based on the CPI-U from March, yet the notification of the rent increase was dated May 31st. There was a new CPI-U on May 14th. Mr. Sutton contacted the community's legal counsel to discuss this and her opinion was that since the initial CPI-U was approved in March, that CPI-U can be used. Mr. Sutton explained that the May CPI-U must be used. Their attorney contacted the DOJ for their opinion. Mr. Crane addressed this issue with Mr. Sutton and he concurred with his interpretation. Unless we have instructional interpretations from the DOJ or our solicitor, this is what we are going with.

VIII. Unfinished Business:

A. Update on Parks for Sale:

Bay City: Sold to Lake Shore Properties on 6/1/23

Country Acres: ROFO Letter sent 5/9/22. No update per Attorney Faries

Daltons MHP: ROFO Letter Sent 6/1/23. Being handles by Attorney Faries

Silver Oaks: ROFO Letter sent 11/12/20

B. Update on Parks Going Through Change in Use:

1. **Timberlane** – 117 affected tenants, 90 approved applications. Up-to-date on 3-month notification letter
2. **Lynch's MHP** – 12 affected tenants, 1 approved application. Up-to-date on 3-month notification letter
3. **Pine Haven** – 38 affected tenants, 3 new applications for approval at this meeting. Mr. Devon Valdesere was recognized by the Chair and stated that he found out that we didn't have him listed as a resident. He had copies of documents proving his residency since he doesn't have a title to his RV. Since he had documentation proving residency, the Board accepted the documentation and can approve the relocation benefit. The procedure to follow when there is no title will be incorporated into our policies and procedures.

Mr. Kinnick was recognized by the Chair and stated that the new owner of Pine Haven, Blue Beach Bungalows, has not paid into the Trust Fund. Mr. Crane stated that the Board was aware that the community had not registered yet because of new ownership. With the liberal interpretation of the Code the Board is not going to penalize the home owners. The Board is following the DOJ Ombudsman's advice to compensate owners of RV's living in the park going through the change of use that otherwise comply. Going forward, future communities in this situation will have to register in order to be paid.

4. **Paradise Cove** – No applications have been received. They will be converting to a seasonal park and there will probably be no relocations involved. Four tenants were grandfathered and they were given an option to remain year-round. Mr. Malone added that other tenants are being offered full time residency. There is a final agreement which is the same as the draft previously given to DEMHRA.

C. Approval of Applications:

1. **Timberlane** - none
2. **Lynch's** - none
3. **Pine Haven:**

Aaron Brumbley, 22444 Sandra Drive, Lincoln, DE 19960

RV Non-Relocatable benefit in the amount of \$3,000.

Devon Valdesere, 22511 Corey Drive, Lincoln, DE 19960

RV Non-Relocatable benefit in the amount of \$3,000.

Jeremy Suloff, 8688 Nelson Drive, Lincoln, DE 19960

Relocatable benefit in the amount of \$12,000 to be paid to Marshall & Bailey

A motion was made and seconded to approve the above relocation benefits collectively. The motion carried 4-0-1, with one board member abstaining.

IX. New Business:

A. Instructions for Setting up Vendor Account for Board Members to be Paid for Meeting Attendance and Updating Policies and Procedures to Include the Same:

Mr. Sutton contacted the state treasurer's office and was given detailed instructions for the board members to register. As they are not state employees, they must register as vendors and set up a vendor account. Since their social security number is required, they must register themselves. A separate attendance sheet will be created that Mr. Sutton will send to the treasurer's office after each board meeting. Mr. Crane suggested the accounts be set up as soon as possible since this takes effect July 1st. Mr. Sutton will email the board members with instructions on completing the registration. This will be incorporated into our policies and procedures.

B. New Orientation via Zoom and Updating Policies and Procedures to Include Same:

Mr. Sutton would like to work with the DOJ, Ms. Jen Allen (FMSHA) and Ms. Christine Hambleton (DOR) to
Meeting Minutes June 8, 2023 (FINAL)

develop a Zoom informational meeting for new owners that would address their roles.

Topics of discussion would include: setting up the trust fund account with the DOR; trust fund payments and instructions on completing the (MHR-Tax Forms and on-line payments); community registration with DEMHRA; CPI-U rent increases, etc. Mr. Sutton asked for the board's input and it was suggested that attorneys who represent communities should also be invited as well as prospective buyers of communities, as well as current owners.

C. HP Copier Lease (Lessee Use Tax):

We are being charged tax monthly for the lease of our HP copier. According to Delaware Code Chapter 30, Section 4302, the lessee use tax is a gross receipts tax imposed on leases of tangible personal property and is considered a use tax for the privilege of using the property within the State of Delaware. These leases are subject to a lease tax of 1.9914%. The lessee (DEMHRA), is responsible for the use tax, but the lessor collects and remits these payments to the Delaware DOR on the lessee's behalf. Mr. Dunn asked why we didn't purchase a copier instead of leasing and he was reminded that the Board approved Mr. Sutton's request at a previous board meeting. Mr. Sutton stated that he made the request to lease a copier due to the fact that the previous copier purchased in 2017 cost over \$1,200.00 and the maintenance costs exceeded \$400.00 a year over the past 5 years. Leasing this copier for 24 months is less expensive in the long run versus purchasing another copier.

D. Consider Compensation Increase for Solicitor and Executive Director:

Our solicitor has been working with us for four years and our Executive Director came back. He didn't receive an increase in compensation before he left. The board had off-line discussions regarding this. A motion was made and seconded to increase their compensations. The motion carried 5-0.

X. Public Comments:

Mr. Kinnick became aware that when Pine Haven began their change in land use with the new landowners, Blue Beach Bungalows residents living in RVs were included in the notice. Meetings were scheduled with their legal counsel, Ms. Faries, who met with residents living in RV's and manufactured homes, to offer them \$5,000 to vacate the park within 30 days, and \$2,000 if they vacated within 90 days. Mr. Kinnick opined that the tenants living in RVs should not be eligible for relocation assistance since they had not paid into the trust fund. Mr. Crane disagreed, noting that nothing in Chapter 70 exempts residents in RVs from receiving relocation assistance and noting that the DOJ agreed with this position.

XI. Executive Session:

The Board did not convene an Executive Session.

XII. Next Meeting:

The next meeting will be held on Thursday, July 13, 2023, at 1:30 P.M.

XIII. Adjournment:

The meeting was adjourned at 2:36 P.M.

Respectfully submitted,

Gregory Sutton
Executive Director

Pursuant to 29 Del. Code Section 10004(e)(2), this agenda may be changed to include additional items (including executive sessions) or the deletion of items (including executive sessions) which arise at the time of the Authority's meeting.