

**DAVIS MOUNTAINS PROPERTY OWNERS ASSOCIATION, INC.  
BOARD OF DIRECTORS MONTHLY MEETING MINUTES  
NOVEMBER 9, 2013**

President Jeff Fisher called the meeting to order at 2:03 PM. A quorum was established and posting of the agenda was verified. Board members not present were Marti Fellers and Terry Segura. Board members present were President Jeff Fisher, V.P. Steve Barr, Treasurer Joe Rowe, Secretary Phyllis Arp, Harold "Toby" Barker, Rick Draheim, Sandra Holzheuser and Jeff Smith.

Joe Rowe led the Pledge of Allegiance and Steve Barr lead the Invocation (reading a 4,000 year old prayer).

Phyllis Arp read the minutes of the October 12, 2013 Monthly Board Meeting. Sandra Holzheuser requested a change pertaining to her open comments regarding the website and open meetings (Holzheuser said she referenced "Board meetings and Road Committee" in her comments). Phyllis Arp made the motion that she "listen to the tape before making a decision." Motion carried unanimously. Joe Rowe made the motion that "we table the Minutes and approval until the Secretary reviews the correction." Motion carried unanimously. President Fisher confirmed addressing this item after recess.

Joe Rowe gave the Treasurer's Report. (Rowe confirmed that the judgment monies of the hunting case had been paid in full. From the floor Sue Smith inquired about a check to Solamotor and questioned the company's legal status. Jeff Fisher explained Solamotor of Texas and its DBA. Steve Barr explained Solamotor's recent services, and both Fisher and Barr described repair details to Willis LeJeune). Steve Barr made the motion "we approve and pay the bills." Motion carried with Sandra Holzheuser opposing.

Joe Rowe gave the report on Past Due Assessments (\$8,093.51 has been collected and roughly \$15,250.00 remains outstanding). Steve Barr made the motion "The President name a standing Resolution Committee." (Rowe explained a "standing committee" per our Covenants). Barr retracted his motion with Jeff Smith retracting his second. Barr made a new motion that "the President name a Resolution Committee." Toby Barker called to question. Motion carried unanimously.

Joe Rowe addressed the check issuance Resolution regarding the Firewise Committee. (Printed reports from the Treasurer and the Committee were made available to the Board and attending members. Rowe explained the history of Board decisions related to Firewise financial and expense details, beginning with June, 2012. From the floor Michelle Boulter commented about "people being upset," "what everyone thinks" and that "they don't understand." Jeff Smith explained reimbursements. Boulter stated that "all Board members should go through the same process." From the floor Lloyd Low confirmed with the President and Treasurer that the funds given to DMPOA by the committee are funds raised by the committee. Sandra Holzheuser said "it upsets me for people to think this is money that belongs to the Firewise Committee, because they are a DMPOA committee." Phyllis Arp explained fundraising, personal outlay of monies and the importance of Firewise. Arp stated, "What I'm getting here is that we have some people opposed to the Firewise efforts, period. And I find it very, very upsetting to hear someone talk about how the amount of money we raise shouldn't be considered funds out of which we should be reimbursed. If we put that money into the account then we should be able to be reimbursed the money we spend to fundraise." Boulter questioned accounting practices. Jeff Smith confirmed DMPOA's initial \$500 donation to the committee. Toby Barker said "if the Road Committee has to wait on reimbursement then why not the next committee?" Rowe responded to Boulter's last comment by clarifying that Firewise funds are in the general fund and stated "there's no special bookkeeping and nothing unethical going on.") President Fisher moved to the next agenda item. No action taken.

Steve Barr gave the Road Committee Report. (Barr stated that over half of the time was spent on maintenance and repairs. Sandra Holzheuser asked about “the accident” and if Barr had done “anything to see to it that it doesn’t happen again.” Referencing Joe Rowe’s ladder fall and broken hip, Barr confirmed he had taken steps and he explained Texas Mutual Insurance Company, their reps’ recent visit and their forthcoming Safety Manual. Phyllis Arp asked if Workman’s Comp had ever been filed on DMPOA in the past. Barr confirmed “Yes, twice prior to this.” Arp also asked if Joe Rowe was one of those past claimants. Barr answered “No. He wasn’t.”) No action taken.

Fire Chief Darell Fellers read the DMR VFD Report (Barr asked and there was discussion about emergency radio audibility. The annual Christmas dinner is set for Dec. 21<sup>st</sup> at 6:00pm). No action taken.

Meeting recessed at 3:20 PM and reconvened 3:43 PM.

Phyllis Arp addressed the minutes of the October 12, 2013 Monthly Board Meeting (Arp listened to the digital recording during recess). To clarify the sentence in question Arp made the motion that it say, “Holzheuser also read from a print-out from the website regarding open meetings,” and in parenthesis correct to “there were comments about the Road Committee.” (Holzheuser suggested the minutes be changed to reflect that her comments were about open meetings of both the Board and the Road Committee.) Toby Barker called for question. Motion carried unanimously. Joe Rowe made the motion to accept the Minutes as corrected. Motion carried unanimously.

Joe Rowe gave the Legal Report, stating that the judgment monies in cause #2418, the hunting case, have been collected in full. (Jeff Smith asked how much money we “lost” in the hunting case; Toby Barker and Rowe said, roughly \$4,800-\$4,900. From the floor Sue Smith asked “who on the Board authorized Richard Baker to continue work after May 30th,” citing a “settlement” on that date. Rowe said, “That is a misleading statement,” and that the Judge had already set another court date. President Fisher explained a number of details, said the case had not been settled, and stated that Mr. Baker represented us in the most appropriate and ethical way; that procedure was followed. Fisher also said that if Smith believed the defense’s argument, that was her opinion. Sue Smith made further comments and President Fisher addressed “accusatory” manner vs. “respectful” questions. Smith posed her original question again, citing “all the extra money.” Rowe explained more details about the court date and Baker’s proper legal representation. Rick Draheim went on record as saying that “I think it’s completely and totally appropriate for our attorney Richard Baker and for our legal representative to have continued work after May, 30<sup>th</sup>.” Steve Barr cited State law concerning corporations and court representation.) No action taken.

Rowe reported on cause #2389, the Bailey right-of-way encroachment. (Bailey’s attorney Kirk Meade informed our attorney Richard Baker on Nov. 6 that a re-plat was ready, but Baker nor Rowe could read the faxed copy. On Nov.7 Rowe drove to Meade’s Alpine office to get a copy and found that it is not a re-plat, it is the same “sketch” Meade provided about 6 months ago. Joe passed the copy on to the Board members for review. The case is on the December court docket, but a conference call with Judge Ferguson has been requested by Baker; the DMPOA already has over \$9,000 invested in this case.) No action taken.

President Fisher read the agenda item: Texas Business Organizations Code Section 3.152 Governing Persons Right of Inspection. Does it apply to the DMPOA? Fisher asked if he should answer that item and Sandra Holzheuser responded “yes.” Fisher answered “Yes” to the item question. (Holzheuser said, “Okay, then that means the next time I go into the office and ask to look at personnel records I can see

them.” Fisher said “No” and explained why; citing policy, the law, additional property codes and the recent legal opinion he had obtained. There was much further discussion between Fisher and Holzheuser concerning Books and Records and related law. Steve Barr pointed out that personnel records are even more restricted by statute. Holzheuser said, “You’ve answered my question, I can’t see it, it’s none of my business.” Fisher responded that he did not say such and he again clarified his legal position. From the floor Sue Smith made several comments; “Thanks to Joe I paid \$32 for an electronic transfer, no paperwork,” then she offered the information “for free to anyone.” Smith also stated her opinion about President Fisher “treating her/Holzheuser badly” and questioned him as “a gentleman.” Holzheuser said to Fisher she had taken no offense. Holzheuser and Fisher had another exchange of clarification concerning review of Books and Records, and they thanked one another.) No action taken.

The next item was the complaint by Ron and Cindy Davis regarding the Nov. and Dec. 2011 Meeting Minutes. President Fisher read the written complaint provided to the Board. Fisher stated that the complaint was years and 2 Boards “too late,” but deferred to the Board after reading Executive Session rules. Cindy Davis was present and said she would address her complaint openly. Sandra Holzheuser moved “we deal with Cindy’s complaint.” Motion carried with Phyllis Arp opposing. (Cindy Davis said she does not have a computer and was told they “were on this website.” Davis asked Board members to review their copies of those Minutes and the letter written by then President Steve Barr to Ron Davis. Davis presented a hand drawn map and detailed her understanding of the incident and situation. Davis also said that the letter was “not nice.” President Fisher read Barr’s letter out loud. Davis said she wanted to see the written complaints, and she cited others speeding and other noisy vehicles.)

Rick Draheim addressed the President and Secretary asking that “this be entered in the Minutes for next month”: “The then Secretary of the DMPOA, Rick Draheim, apologizes if anything he wrote in the November and December, 2011 Minutes was inaccurate. He does not wish for anyone to infer from his minutes that Ron Davis presently operates his water truck unsafely.” (From the floor Ken Gossett said he was a Board member at the time but couldn’t remember if an actual complaint had been filed. Phyllis Arp confirmed that the November Minutes reflect that the Road Committee unanimously brought the complaint to the Board. Arp also said that she had filed a complaint. Davis approached Arp and President Fisher called for order. Arp resumed the floor and stated that there were a number of others who were sent a similar letter of complaint. Joe Rowe gave his recollection of the October 19<sup>th</sup> incident per his written journal. Tracy Davis stated they “want the statements removed from the webpage.” Arp explained that approved Minutes are to be posted to the website and should not be removed. Holzheuser said that what is in the Minutes is what occurred and what was said at the meeting. Arp said Holzheuser was correct, and that meeting minutes on the website should be the same as the minutes on file in the office.)

Joe Rowe went on record saying, “During the Road Committee Report I erroneously stated ‘we pulled a stranded motorist out of the canyon.’ We pulled out a 4-wheel trailer full of gravel that had been left on the very edge of a canyon. In the next paragraph I said it was ‘Ron Davis we had to pull out.’ It was actually a trailer being pulled by Ron Davis.”

Jeff Smith went on record as saying, “Since we’re revising an issue that happened two years ago, my perspective is that Ron Davis responded to the letter the Board sent and has been driving more safely and respectfully on our roads. That’s what we’d hoped would be the outcome and I’m pleased to report that seems to be the case.”

Davis said she accepted the statements. (She then addressed Steve Barr concerning a near-accident by the Jezek's drive on Tomahawk, and referenced minutes of another Board meeting held in October. President Fisher called for order and for Davis to stay on point. Fisher also explained details related to the approval of minutes. Davis said she "would accept" what was said by Draheim, Rowe and Smith. Davis then proceeded to question why open comments are in minutes and "what the Board says is not." Fisher called for order and again explained the process and approval of minutes.) Fisher thanked Davis for her passionate presentation and he thanked the Board for taking their position. No further action taken.

Sandra Holzheuser addressed the item Clean out cattle guard at entrance to DMR, stating she'd requested the item because a property owner had asked that it be on the agenda. (Holzheuser explained it could possibly help contain the burros. She went on to say that burros could get to the highway and get hit by a vehicle, "if someone got hurt or killed because we didn't do anything about it, my conscious would bother me from now on." Steve Barr said the issue would likely fall into a Road Committee Chair responsibility, and asked the Board to make the decision. Joe Rowe stated that last October [2012] he and Loren Spencer spent the "better part of 2 weeks" cleaning out cattle guards; describing what's entailed in cleaning out the "like concrete" at the entrance. Rowe also said, "That cattle guard serves a better use than keeping donkeys in. When the cattle guard is open underneath it acts as a culvert to carry a lot of water off the hill under the road rather than over the road, which, to me as a property owner, is more important.")

Fisher entertained a motion. Toby Barker moved that "the Road Committee move cleaning the cattle guard to a high priority." (Sue Smith made comments from the floor, stating she "works weird hours and at night," she "has to push them [the burros] back in," and that "this is something that needs to be done pretty quick." Smith also said Loren Spencer told her he could flush out the cattle guard and she "assumed he was told not to." Barr confirmed that Spencer had not presented the issue, and Barr commented about the motion on the floor. Holzheuser asked for clarification of "high priority" in the motion. Barr said the crew would be working the main road within the next week.) Joe Rowe amended Barker's motion to include "when they get there and are blading the main road." The amendment carried unanimously. The amended motion carried unanimously.

Phyllis Arp addressed the Community Center improvements and usage. (Arp said she was behind in getting things done, stating there was a death in her family.) Arp made the motion to "extend my time to finish out the improvements within the next 30 days." Rick Draheim seconded. Motion carried.

Arp asked if the Christmas tree she donated last year could be put up in the Community Center again this year. Rick Draheim moved "we put up the tree again this year." Sandra Holzheuser amended the motion to "we put up the tree every year." The amendment and the amended motion carried unanimously.

#### OPEN COMMENTS

President Fisher apologized to everyone by saying "if I get a little hot under the collar" about issues being rehashed. Fisher also offered the "Dun & Bradstreet, sales tax and federal ID numbers" in relation to his company, Solamotor, "to satisfy" earlier comments on that point.

Deborah Lagarde said she was not at the last meeting so she thanked the Board for her raise.

Cindy Davis referenced her previous Board meeting comment “the roads belong to all of us” and Steve Barr’s response at that meeting. Addressing Barr, Davis then read from DMPOA’s 1979 Articles of Incorporation. Barr clarified membership vs. ownership. Davis commented about “paying dues” and Barr confirmed that property owners actually pay assessment fees, not “dues.”

Lloyd Low said he appreciated the position President Fisher is in, and said the letter of the law must be followed, and that he appreciates Fisher doing so.

Joe Rowe said he appreciated what Low said about our President. Rowe also defined “the vast difference between dues and assessment fees” and he commented on DMPOA, Inc. deed ownership of roads and common property (Cindy Davis said she understood).

Lloyd Low explained that a corporation is a “separate legal entity.”

Jeff Smith moved we adjourn (seconded by Toby Barker). Motion carried unanimously.

Meeting adjourned at 5:36 P.M.

APPROVED WITH CORRECTIONS 12/14/13

Phyllis Arp  
DMPOA, Inc. Secretary