MOUNTAIN PARK
Nature's Neighborhood

Meeting Minutes
Board of Directors Meeting
October 10, 2016, 7:00PM

Pursuant to notice duly given a regular meeting of the Board of Directors of the Mountain Park Home Owners Association was held at the Clubhouse on Monday, October 10, 2016. Present at the meeting were Directors Kurtus, Kyle, Lazaris, O'Connor, Slaven, and Sangrey. Executive Director, Carol Cook and Marcelino Soliz, were also present. Director Price was absent.

Call to Order - The meeting was called to order by President Sangrey at 7:00PM.

1. **Appeals to the Board**
   a. Phillip Bell, John Crowell, and Brian Chang, representing the Lake Grove Boy Scouts Unit, attended the meeting to request an exception to the new RV lease and continue to allow Mr. Bell to lease a RV space for the Boy Scout's container as they have leased the space for over 10 years. The Boy Scout representatives requested that they continue to be a guest at the RV lot and agreed to clean the container and surrounding areas as well as agreed to the ability to work with the 1-fob policy. Director Slaven made a motion to approve an exception to the 2-year lease with the agreement that the area would be kept clean. Director Kurtus seconded the motion and upon vote by the Directors, the motion was passed 6 Yes/0 No.
   b. 107 Kingsgate – the owner of 107 Kingsgate and a roofing company representative attended the meeting to appeal the Architectural Committee's denial of approval of her roofing project due to not presenting detailed specs on a product that was not on the pre-approved roofing material list. The Board recommended that the owner resubmit her project to the Architectural Committee for review with the required spec information.
   c. 13 Mt. Circle – the owner did not attend the Board meeting but the Board reviewed the request for appeal of a $250 fine for non-compliance in maintaining her property. The property currently is meeting property maintenance standards; however, the fine was for a reoccurring issue for non-compliance with property standards occurring in May 2016. Director O'Connor made a motion to deny the appeal. Director Lazaris seconded the motion and upon vote by the Directors, the motion was passed 6 Yes/0 No.

2. **Visitor Comments & Letters to the Board** – none.

3. **Reading and approval of minutes**

   Director Rick Slaven made a motion to accept the September 27, 2016 minutes as amended. Director Kurtus seconded the motion, and upon vote by the Directors, the motion passed (4 Yes-0 No). Directors Lazaris and Kyle abstained..

4. **Old Business**

   a. Finance Committee Recommendation – The Board discussed the following recommendations from Finance Committee:

Recommendations to the MPHOA Board on
Tax Planning and Capital Expenditures
October 4, 2016

During the last several months, the Finance Committee has studied several related issues: 1) MPHOA's income tax liability and options; 2) cash flow management; and, 3) covenants associated with our loan from First Citizens Bank. The following recommendations are presented as an integrated set of changes to address this Committee's immediate concerns and provide a foundation for improved operations for MPHOA going forward. We also propose a revised budget for the remainder of 2016.

Tax Liability & Planning

Carol Cook engaged Mitchel Cohen, an expert tax attorney from Landye Bennett Blumstein, who worked with our auditor, Doug McClain from Currie and McClain, to advise the Finance Committee on options to address the income tax liability associated with our combined operations that serve members and non-members of the MPHOA. MPHOA has potential tax liability for net income resulting from revenue generated by the fees paid by non-members, as well as from fees paid by members for activities that are not offered within the basic Association program for members.

Non-profit homeowner associations such as MPHOA have two options for IRS filing status: 1) filing using the regular corporate income tax return, Form 1120, or 2) filing as a tax-exempt homeowners association under IRS Form 1120-H. For the past three years we have been filing under Form 1120 which allowed us to combine our member and non-member businesses and to avoid paying taxes so long as we identified any excess operating income and transferred the excess to our Reserve Fund. The alternative is to file under Form 1120-H. If we file as a tax-exempt organization, we will be required to separately account for our non-member and member fee activities. Any income net of expenses will be subject to a flat 30% Federal tax, along with State tax.

Starting with the 2016 tax year, the Finance Committee recommends that MPHOA plan to file under IRS Form 1120-H. The Finance Committee further recommends that MPHOA strive to file under Form 1120-H every year from here forward. We recommend budget changes that should help assure that we meet the criteria necessary to qualify under Form 1120-H.

Filing under Form 1120-H requires meeting certain conditions, and we have been advised by Mitchel Cohen and Doug McClain on how to meet these tests. For budgeting and financial purposes, there are two critical tests. The first test is the so-called **"Exempt Function Income"** test. This test requires that at least 60% of our **Total Income** be defined as **Exempt Function Income.** The definition of this term is somewhat complicated, but **Non-Exempt Function Income** includes income from Playschool, Patrons, Guest fees, as well as all special fees paid by members and non-members for fitness, aquatics, etc., and excludes money we put into the Reserve Fund. The exclusions, and in particular, the amount of money we put into the Reserve Fund, have meant that, for the last few years, MPHOA has not been able to meet this test and has had to file as a for-profit corporation. **Non-Exempt Function Income** cannot exceed 40% of MPHOA's total income. An important aspect of this test is that capital assessments are not considered in the formula for the 60% Exempt Function Income test. Because we transfer a significant amount of our annual assessments to the Reserve Fund, meeting the 60% income test is challenging unless we are careful to separate Maintenance and Repair expenditures from Replacement and Capital expenditures when making the 60% Exempt Function Income test.

The second test that must be met is the **Expenditure Test** that requires at least 90% of the MPHOA's expenditures be "qualifying expenditures." The key aspect for qualifying expenditures is that they be made for "acquisition, construction, management, maintenance and care of association property". Mitchel Cohen submitted a detailed report supporting his conclusion that MPHOA will be able to meet this test based on how our facilities are used.

Based on the reports from the two consultants and the recommendations below, we are confident that MPHOA can qualify to file under Form 1120-H for the 2016 tax year. We will have the opportunity to make the filing decision between Form 1120 and Form 1120-H each year. An advantage to filing under Form 1120-H in 2016 is that there will be no need to deal with the planned transfer of the roll-over surpluses from 2015 (around $250,000).

Distinguishing between Maintenance, Repair and Capital Expenditures

For the past few years we have been accounting for most Capital Expenditures within the Reserve Fund with few if any Capital Expenditures being budgeted or made from the Operating Fund. Monies that are collected from members as part of the Annual Assessment are transferred directly to the Reserve Fund (a budgeted total of $662,381 in 2016, which includes principal and interest on our loan). Expenditures from the Reserve Fund are based on the MPHOA Reserve Study and Plan, plus particular situations that develop each year. Expenditures from the Reserve Fund address a spectrum of needs that include Maintenance, Repair, Replacement and New Capital Assets.

Recently (for at least several years) we have been describing all of the expenditures from the Reserve Fund as Capital Expenditures. This accounting has been responsible for some of the cash flow and tax challenges we have been facing and may have adversely impacted our ability to meet bank covenants. Correcting the accounting of expenditures within the Reserve Fund, specifically by separating out Maintenance and Repair, will clarify how MPHOA actually spends to support our facilities and will improve our ability to meet the **Exempt Function Income** test described above.

The Finance Committee recommends that MPHOA:

1) Separate and identify all expenditures for Maintenance and Repair in the budget for both the Operating Fund and the Reserve Fund.

2) Develop the 2017 budget consistent with the change noted in 1).

3) Revise the 2016 budget consistent with the changes noted in 1). Report to the MPHOA Membership the revised 2016 budget.

When Maintenance and Repair expenditures are separately identified, these expenditures will be included in both the Total Income and the Exempt Function Income when making the 60% Exempt Function Income Test. Including this number in both terms of the ratio will increase our ability to meet the test and file under Form 1120-H.

How the separately identified Maintenance and Repair expenditures are accounted for within our current system of two funds – the Operating Fund and the Reserve Fund - should be determined by our staff, in consultation with our auditor. The important outcome is that we are able to separate out these non-capital expenditures. Whether the Maintenance and Repair expenditures are identified as part of the Reserve Fund or as a line item in the Operating Fund, or both, should not limit the ability to identify this category of expenditure for use in our income tax filing and other purposes.

Revision of the Budget for 2016

Consistent with item 3) above, the Finance Committee will work with staff to revise the budget for 2016 and will include in that revision a category of Maintenance and Repair within the current Reserve Fund plan and budget of at least $29,099. This is the sum of completed items that have been identified as Maintenance and Repair.

The revised 2016 budget also will include a revision of the planned transfer from the Operating Fund to the Reserve Fund and other issues. This budget revision can be expected no later than the Board meeting on November 14, 2016.

Clarity of the Annual Assessment

The Finance Committee has received recommendations that the Annual Assessment invoices be improved by specifically identifying how much of the assessment is applied to operations and how much goes to the Reserve Fund.

The Finance Committee recommends that the Annual Assessment invoice identify explicitly that part of each assessment that is designated for payment of loan principal and interest, that part of the Annual Assessment that is to be transferred to the Reserve Fund for capital expenditures and savings, and that part of the Annual Assessment that will be spent in the Operating Fund. This change should begin with the December 2016 invoice.

> Director Kyle made a motion for the Board to receive the recommendations from the Finance Committee and charge the Staff and Finance Committee to continue to work through the process. Director O'Connor seconded the motion and upon vote by the Directors, the motion was passed 6 Yes/0 No.

b. 9 Juarez Foreclosure – The report was deferred until the next Board Meeting.

c. Seismic Upgrade Project– Director O'Connor presented a current estimate of project costs based on structural design documents from Bremik Construction. It was reported that the costs to complete the upgrades for the Banquet Room and Preschool would cost about $212,000 and the Pool, Sports Court, and Cardio Room upgrades would cost about $71,000. Director O'Connor estimated the total cost of upgrades in all areas would be about $313,000, including contingency costs for over-time wages and permitting.

5. New Business

a. 2017 Strategic Plan Review – was deferred until the next Board Meeting.

b. City of Lake Oswego Comprehensive Plan – Executive Director Cook reported that the City had sent plans proposing zoning changes that would affect Mt. Park.

Directors O'Connor and Kyle both had question regarding the zoning that were proposed along McNary; therefore, their comments were sent to the City Planner. The comments from the planner were reviewed in the Board meeting and seemed appropriate. The Board asked Executive Director Cook to forward the information to Matt Palmer, the Chair of the Mt. Park Neighborhood Association.

c. New Fitness Director – Executive Director Cook confirmed with the Board that they had seen the email welcoming Anna Johnson as the new Fitness-Aquatics-KidZone Director.

Adjournment – At 9:00PM., the meeting was adjourned.

Secretary Treasurer