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DUTCH CREEK VILLAGE HOMEOWNERS & RECREATIONAL ASSOCIATION  
SPECIAL MEETING MINUTES OF THE BOARD OF DIRECTORS

September 9, 2008

**ACTION / MOTION RECORD**

1. **ACTION:** The Board decided to continue work on the Perimeter Fence Policy, enlisting the comments received during the hearing period.
  - \* Mark Hannum- take the lead on the revision which would then be posted on the website after Board approval to post the new proposal - for the 45 day comment time.
  - \*Lynn Cole will contact Mark Hannum about the revisions, if he does not respond, she will contact Marcel.
  - \*Howard Wisher volunteered to help get more email addresses of homeowners so that email notification can go to more homeowners.
  - \*Lynn Cole volunteered to take a notice to each and every homeowner.
  - \*Kathy Mohrbacher volunteered to write the notices.
  
2. **MOTION:** Eileen Parker moved to accept the Minutes of the August 2008 Regular Board meeting of the DCV HOA & Recreational Facility as emailed prior to this meeting. Kathy Mohrbacher seconded the motion. Motion passed unanimously.
  
3. **ACTION:** Marcel will look into the options available to the HOA in dealing with un-maintained and/or foreclosed properties. He will let the Board know next month. He will talk with the Freeman's in order to address their concerns of the property at 6659 W Polk Pl about which they came to this meeting.

MINUTES APPROVAL SIGN-OFF:

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President (signature)

\_\_\_\_\_

Secretary (signature)

\_\_\_\_\_

Date

\_\_\_\_\_

Date

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DUTCH CREEK VILLAGE HOMEOWNERS & RECREATIONAL ASSOCIATION  
SPECIAL MEETING MINUTES OF THE BOARD OF DIRECTORS

September 9, 2008

The Directors of the Dutch Creek Village Homeowners and Recreational Association, a Colorado non-profit corporation, met to hold a regular meeting in the coffee shop meeting room of the Trinity Christian Center at 6500 W Coal Mine Ave. at 6:30 PM.

**Attendance:**

Board of Directors: Mark Hannum, Karen Melfi, Kathy Mohrbacher, Eileen Parker, and Marcel Savoie;

*Dan Dowell and Troy Brown were absent*

Committee Chairmen: Rich Hagan, Lou Day

Homeowners: Lynn Cole (also on the ACC committee), Cindy Losh, Dirk and Peige Visser, Howard & Karen Wisher, Charlie & Chantelle Freeman, Larry Money, Lee McKie, Mike Guthrie

The meeting was called to order at 6:34 PM by President, Marcel Savoie.

**Opening Remarks:** Marcel Savoie:

\*Mark Hannum's responsibility area will be addressed first as he needs to leave early due to family commitments.

\*Dan Dowell is absent due to family obligations.

\*Troy Brown did not contact him.

\* Marcel apologized to Lynn Cole for his part in the August meeting wherein he called her "out of order". Lou Day and Lynn Cole met with him after that meeting and he has realized his error – a rather liberal practice, on his part, of allowing homeowner's participation outside the initial section of the meeting where homeowners are asked to tell the Board the reason for their attendance and to which topic of business they wish to be heard.

Reference: Resolution 003-06 of the Dutch Creek Village Homeowners & Recreational Association PROCEDURES FOR THE CONDUCT OF MEETINGS

During the meeting when a committee's responsibility area is being discussed, then it would be appropriate for a committee member to participate in the discussion.

\*Lou Day noted the requirement by state law which allows any attendee to speak to a motion on the floor prior to a vote being taken.

**OPEN FORUM**

Mike Guthrie: Concern over the proposed fence policy - if not on homeowner's property but on HOA property, it's unreasonable to expect him to pay for that fence.

Rich Hagan: Here to cover Dan Dowell's report and wanted to speak regarding a Pool Manager and about vandalism at the pool area – use of a pocket knife on the picnic tables (carving through the plasticized covering on one and already starting to rust; tables which cost about \$1100 each), rocks dropped on and breaking the pool coping, pool overflow being jammed up, rocks in the bottom of the pool, and the life ring being stolen; in his and Dan's opinion the Board needs to revisit spending about \$2000 money on security cameras.

Larry Money: Appeal on notice received from the Architectural Control Committee (ACC) regarding a pickup shell top on driveway and trash cans.

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Marcel - that there is an appeal process whereby if a homeowner and Mark, the ACC chair &/or committee aren't able to come to an agreement, then the homeowner has a right to appeal to the Board. That is why there is only one Board member on that committee.

Charlie/Chantelle Freeman: Encouraged by a neighbor to bring concerns to the Board about the condition of the property - 6659 W Polk Pl - next to their home. Their home is for sale and they have heard from prospective buyers that it is the condition of their neighbors' home that is a deterrent to the sale of their property. They've mowed, pulled weeds and painted the front of that house. Want to know what the HOA Policy is in these kinds of cases (where the homeowner can't/won't maintain the property – the owner has told them it is going into foreclosure) so that they can let their realtor know how to field questions from potential buyers. There was another problem, a mattress on a roof of another home across the way, too. They'd like to know what the HOA policy is on such things.

Lynn Cole: Architectural Control Committee (ACC) concerns

Howard Wisher: lives on Calhoun Pl; Proposed Perimeter Fence policy's legality if on HOA property -- spent considerable money to maintain his fence along Marshall and that which faces Calhoun Pl and isn't interested in spending more to maintain what is HOA property. The ambiguity of the policy statement – especially, the uniformity statement in that it is in the best interest of the HOA to maintain those fences so that there is uniformity

Dirk & Peige Visser: also on the Calhoun Pl cul-de-sac; proposed Perimeter Fence Policy and the logistics/specifics of it which are unclear; the policy states a 5' fence height requirement but it currently is 6' tall; questioned the purpose of this policy.

Cindy Losh: Also lives on Calhoun Pl.; Fence policy proposal and concern that if the HOA is “prettying up” the community then something needs to be done about the untended area at the end of the perimeter fence along Coal Mine, too – the area from the irrigated area at the Marshall Ct entrance to the end of the fence which is the backside of their property.

Lee McKie: Lives on S. Newland Ct. –doesn't back up to any common area; but believes the HOA should be responsible for those fences because the uniformity isn't there if left to individuals. A uniform fence is a benefit to all homeowners within the community in ways such as enhances the community's appearance. Believes the community should have a vote on this; and the legalities of this policy also need to be investigated. Asked why the weeds and grasses aren't being kept cut as in past years.

Clarification: speaking of the area where there is no irrigated/mown bluegrass

Lou Day: Identified himself as a “troublemaker”; Wants to ask of Mark and Marcel why Mark Hannum has refused, twice, to answer factual questions about this proposed fence policy as the drafter of this policy. Lou said he had not asked these at a meeting due to time constraints.

Larry Money: Asked about the home on Calhoun Pl that is in foreclosure and particularly what can be done about the grass.

Kathy Mohrbacher responded that it is under contract now. It is supposed to close on Sept. 20th

## DIRECTOR REPORTS

ACC – Architectural Control Committee: Mark Hannum

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\*Handed to Directors: ACC “Monthly Activity Log – Dutch Creek Village Recreation Assn. ACC” and noted, again, a homeowner had changed paint color without filing an application

\*Told us he will talk with Larry Money about violation notice and get that cleared up or get the rest of the committee to take a look at it, if needed.

\*Addressed the violations at 6659 W Polk Pl – had talked with the owner at the first of the year and was told it was going to go to foreclosure that she didn’t have the money to take care of it. Mark stated that the ACC/HOA does not have the right to enter anyone’s yard to take needed action to fix violations.

Lynn Cole - As a committee member, was unaware that this property had ever been addressed before; if she’d known, she’d not have gone to the effort to look into it as asked to do so at the August Board meeting (due to the complaint letter by three homeowners.) The Board wanted it investigated further due to the complaint letter. Kathy Mohrbacher complimented Lynn on her excellent report, with pictures, given to the Directors via email.

### **\*PROPOSED PERIMETER FENCE POLICY**

Answer to Lou’s question about not discussing the policy – Mark said he, “... won’t answer questions that he doesn’t know the answers to.” Mark stated that this Board also has a policy not to discuss Board business outside of the meetings. Marcel explained that the Board has taken a position based on the advice from the attorneys that Board members answering questions outside of the Board forum are liable for their actions. Therefore, the answers are taken care of at the Board meetings. He gave the example that a Director could be walking along the sidewalk and see a homeowner painting a house pink. The homeowner might ask if the Director liked his house color. The Director might say something, facetiously, like “nice color” and the homeowner can construe that as permission from the Board because the person who said it is a Director of the Board. Homeowners with questions and concerns are encouraged to attend a meeting, instead.

Eileen stated her disagreement with this being “Board Policy” -- that it is unreasonable to think that all business of the Board can be conducted only at these meetings; and that there are things the members of the Board can deal with outside the meeting format and not be misconstrued as policy.

Marcel answered that it is not Board Policy but on the advice of the attorneys it is his recommendation. He stated that he does not believe that there is any business, other than an emergency situation, that should be conducted via email or by telephone or in anyway other than a meeting. His opinion is that conducting business only at a scheduled meeting allows homeowners opportunity to comment and “private” meetings do not.

Lynn Cole: Asked when were the appropriate times to speak then? If she asks Mark questions outside the Board meeting, we’re being told he isn’t advised to answer. Yet, at a Board meeting she is told she’s “out of order” or “you’re taking too long”, etc. Marcel said that she, as a member of the ACC, could talk with Mark anytime as related to the ACC business.

Lynn responded that would work, then, if Mark would answer emails or phone calls or have committee meetings.

Cindy Losh: How does a homeowner get notification of issues like this fence policy and meetings since the newsletter was taken away?

Marcel: HOA website; and Lou Day has email addresses of many homeowners to whom he sends out notices of meetings, etc. He stated that sending out individual notices for each meeting or issue can be very expensive. The newsletter which recently was delivered to homeowners and contained notice of the Proposed Fence Policy is “private material of the publisher” - a local realtor who is also a DCV homeowner, Jackie Mathewson. Eileen Parker helps her BUT not as a Board member. They choose what

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goes into the newsletter but there is a disclaimer in the newsletter stating that the newsletter is not put out by the Board of Directors of DCV HOA.

Howard Wisher questioned a high cost to sending written notification by US Mail; bulk mailing doesn't cost much.

Lou Day: Stated that he had the understanding that all homeowners were going to be notified of the proposed fence policy after the July meeting where it was approved for the comment period. The Minutes of that meeting do not state exactly how the notification would be done, however. None of the Directors, present, could recall the exact decision, if any.

Peige Visser: Suggested that the "HOA Meeting" signs be used prior to meetings as they are easy to set out.

Mark Hannum:

\*Fence line survey, commissioned by the Board in 2007, showed the fence along Pierce weaves in and out of the homeowners' properties and onto the HOA property – sometimes within the same lot.

\*The idea and spirit of the proposed policy was to have a policy of cooperation in maintaining these fences. If the fence was clearly on one or the other – homeowner's alone or HOA common area alone – a policy might be easier to set.

\*On the other side of this issue are the homeowners who don't believe that their dues should be used to maintain a fence for which someone else has more benefit and use because it is that homeowner's back fence. Which fences then are HOA maintained – all those along a green belt/common area? What about a fence between two neighbors which isn't really visible to others?

\*There isn't money in the current budget or in the near future, without upping the dues, to replace perimeter fences. As it is now, and part of the reason this proposed policy was put forth, is that we can probably come through with enough funds to work on the pillars going forward.

Mike Guthrie: He didn't believe anyone, tonight, said that they aren't willing to pay for repairs to the fences. In fact, most have stated that they have maintained and repaired these fences along their lots. He hasn't re-mortared the stones that have fallen off the pillars, but believe this to be the opportunity for comment for those homeowners who have this kind of fence which is considerably more expensive than a regular picket fence. He stated his belief that those fences were built and exists as the perimeter for the neighborhood and not just for the benefit of a single homeowner. Just as the perimeter fence around the pool area adds value to the neighborhood, the perimeter fence around the entire neighborhood adds value to the community/neighborhood.

Peige Visser: Questioned why the proposed policy stated 5 foot fence height when the current fence along Coal Mine is 6 foot. The measurements and other information in the policy need to be clear so that another Board can't come back at a later time and re-interpret the policy as something else entirely due to ambiguity of wording.

Marcel Savoie: Stated that perhaps more history of this issue needed to be given –

**A)** Attorney's advice - Research county records to see if there was any document(s) filed that places responsibility to maintain these perimeter fences. Marcel did that and there is no such document or statement within any of our documents. The research shows that the builder did build the perimeter fence but nothing states who is to maintain it.

**B)** The survey was done – to establish ownership – if built on the HOA property or the homeowners' property - it would be clear.

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C) Back to attorneys who recommended for several reasons that we amend the HOA Documents – which requires a vote of all homeowners and considerable time and expense – a minimum of \$1200 each time to have the attorneys write it and send it out. They also said not to expect enough participation to be able to get it accepted one way or the other with one mailing and one vote. It takes awhile to get enough participation to get the required number of votes.

D) (*Reference note - Dale Cloud and Frank McKinney and Mark Hannum*) did research and came up with monetary figures to address the idea of the HOA taking ownership of the fence. This showed considerable expense – roughly equal to the entire year of HOA dues. At this time and in this year's budget we allocated a relatively small amount of funds for repair of the fence.

E) The major expenses of the HOA are the grounds and common areas such as the pool area. Even if the HOA were to take responsibility for the perimeter fences, we don't have the money to do anything beyond a piece meal approach over several years to make improvements. There seems to never have been any Board allocation of money to perimeter fence maintenance or repair over the history of this HOA.

Mark Hannum: Explained that Filing III is supposed to be dealing with the fences in that filing – under their HOA Covenants - and that isn't even addressed with this proposed policy. In addition, those fences are definitely on the homeowner's property and covered in their covenants.

- There are 16 houses, in Filing I and II, that have the perimeter fences – out of 184 houses total.
- Obviously we've not struck a chord that says we have the best option, so what is the best option?

Cindy Losh asked what percentage of the fence “meanders?”

The portion that meanders is that along Pierce. The wood fence part along Coal Mine is entirely on HOA property.

She asked what happens then, under this proposed policy, if part of her fence is falling down on this side and Howard's for example is perfect. She wants to fix hers; but then it doesn't match. Is the HOA going to force Howard to replace his?

Mark talked, again, of the past year's discussions, and the fact that one homeowner along Pierce did go ahead and replace the pickets before we reached any conclusions. The resultant talk is that it would be very nice to have all new fences along there so that it is matching and looks good. Ideally, that is what this Board would like to be able to do – go in and replace in phases, at least. BUT, the money isn't there for the HOA to take the entire responsibility.

Peige Visser: Questioned if the Board wanted to go in and have the old fences that have been maintained but just look “old” be ripped out and replaced?

This Board decided to propose a policy so that any replacement fences be uniform and establish the cooperation of the HOA in responsibility for the pillars which add considerable expense to such maintenance or replacement. With a cooperative policy in place and the possibility of several homeowners replacing at the same time the Board could facilitate reduced materials cost.

Lynn Cole: Stated that it seems that the proposed fence policy should either include Filing III or specifically exclude it then – for clarity purposes.

Mark and Marcel - there is some question of just what authority the Master Association and Filing III Association have and where specific authorities lie.

Mark - in revising this policy because of the comments received during the comment period and specifically tonight, we need to specify specific properties to which the policy would apply.

Howard Wisher: Stated that the purpose for uniformity is for people outside of our community, not so much for people within the community.

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Several people, including Kathy Mohrbacher and Karen Melfi said that they disagreed. The issue was brought clear to all when the new fence on Pierce was built and the old fences and the broken down fences were made more obvious.

Larry Money interjected that if uniformity is the goal then how can Filing III be excluded? There is a fence there being propped up by boards. Karen Melfi voiced the opinion that we should have someone from the Filing III Board here for this conversation. Mark reiterated that their fence ownership is clearly the individual homeowner's AND they have their own Board and their Covenants are enforced by them. They probably have more perimeter fence in total than we have in two Filings; and it's a completely different fence design.

Lynn Cole questioned why all the fences have to match? Peige Visser agreed and said that she likes the personality of a community that isn't all look-alike properties.

Lee McKie: Voiced frustration over the historic problem, over many years, of getting any decisions made especially as deal with funding and such. He questioned why "we don't just step up to our responsibilities and do it, like with the pool." He doesn't understand why the Board can't just move forward instead of always having these issues and discussions that don't accomplish anything.

Eileen responded that the reason is that people don't agree – the people on this Board don't even agree. Not everyone thinks alike.

Lee stated that it would seem that in an area of similar values and such a decision could be made more easily.

Marcel responded – We're saying that we don't have the funds and we don't have the legal authority to take on responsibility for replacing/repairing/maintaining the fences. The comments made tonight indicate to him that the Board should authorize the money to get the attorneys to draw up the Amendment and get the votes and we can "storm the fence." Eileen Parker responded with, "Then, we'll have just as many or more people show up to tell us that that policy is wrong!"

Mike Guthrie asked if this Proposed Perimeter Fence Policy was going to be revised, as he thought was being said, and the homeowners would have another shot at it? Marcel answered, "Yes." Marcel added that he hoped the attendees go back and talk to their neighbors then. And when the Amendment mailings go out and the votes are asked to be returned, they'll help walk the community to get the vote.

Howard Wisher said that he believes that the perimeter fence is a mutual benefit to all the people within the HOA. He believes some kind of joint contingency/financing of the fence would be warranted.

Rich Hagan disagreed with Marcel's assessment of the comments tonight to be an authorization for the Board to get the Documents amended to make the HOA responsible for these fences. Marcel said that what he had said was that is the only way to solve this issue -- **if** we can't get an agreement like what we are recommending.

Larry Money suggested that the Board send out a draft of a revised Fence Policy which also explains the history and costs and the benefit to the homeowners; especially the benefit of shared costs. Given the expected cost of getting an Amendment to the Documents, the trade offs should be explained as has been done tonight.

Dirk Visser asked for clarification as to how the ACC would determine when a fence has to be replaced? For example, if a neighbor's fence falls down and it's replaced, would he be required to rebuild his to match the one that was replaced?

Rich Hagan clarified this by saying that the purpose of this proposed policy is to set some standards for the materials and such so that when a fence is replaced the outcome is uniform.

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Mark asked how people would like to have additional input into revisions and issues dealing with a Fence Policy. Kathy Mohrbacher suggested that postcards be sent to every homeowner advising them to go to the website for the revised policy proposal and information as to deadlines, etc. Lou said that is possible. Howard Wisher volunteered to help get more email addresses. Lynn Cole volunteered to take a notice to every house. Kathy said she'd write the notice.

As Mark needed to leave, he asked that any further comments be given to him. Marcel thanked everyone for attending and for their input which is very helpful. Further, he asked them to talk with their neighbors. What he doesn't want to see happen is a "surprise" special assessment announced at the next Annual meeting.

**DIRECTOR REPORTS, CONT'D**

Secretary: Eileen Parker

\*No corrections/additions/changes to the emailed Minutes of the August BOD meeting were received prior to this meeting and none at the meeting.

\*MOTION made by Eileen: to accept the minutes of the August 2008 Board of Director's regular meeting as sent by email to the Board. Kathy Mohrbacher seconded the motion. Motion passed unanimously.

Treasurer's Report: Kathy Mohrbacher

\* Kathy - \$14,000 is earmarked for the Vectra Bank loan payments still to be made this year. \$15,000 – 18,000 will be needed to cover the bills, as estimated.

\* Therefore, recommended that nothing other than what is absolutely necessary be spent.

\* Her recommendation going forward is to bid the pool maintenance as those expenses are one of our highest. She also questions the cost of the phone at the pool – maybe bid that service again. Rich Hagan stated that it is a legal requirement to have a phone at the pool.

\*Kathy will talk with Chris Pillow about the scheduled Finance Review for '07-'08 (which was authorized at the August BOD meeting) and about getting all the past records from him.

**CASH FLOW STATUS: 3/31/08 – 8/31/08**

Beginning Cash	\$34,295.21
Inflows	86,250.40
Outflows	- 64,531.61
Interest earned	<u>251.24</u>
Ending cash	\$56,265.24

**CASH ON HAND**

Checking	\$ 7,498.35
Money Market	46,107.36
Reserve Account	<u>2659.53</u>
	\$56,265.24

**DELINQUENCY STATUS (dues)**

90+ days	\$14,705.15
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\*Some areas of responsibility are over budget and others are under. Each Director needs to pay attention to the money and expense.

### V. President: Karen Melfi

#### \*Pool:

Rich Hagan - we need a pool manager for next year that is able to attend almost daily to the needs of the Pool area. Troy Brown, essentially, has resigned. Rich has talked with Amy Thomas, who is there almost daily with her two young sons. She is willing and interested. However, she is not willing to be a Director of the Board. He asked whether or not we were interested in his talking with her more extensively and whether or not it is essential that she be a homeowner. She is living with her parents who are the DCV homeowners. She would be the "eyes and ears" of the Board and handle the day to day maintenance issues with the contracted pool maintenance person. The consensus was that this person should be considered if she is still interested in the late spring of 2009.

\*As far as the discussion of security cameras, he will table that for this meeting and this year's budget.

\*Rich will check into cost to repair the vandalized picnic tables.

\*There are still problems with the lighting at the pool. One has been on in the day light; one is missing a bulb, etc.

\*A vent plate is missing between the ladies' room and the maintenance room – needs replaced.

\* \$310 authorized for electrical repairs in the boiler room hasn't been done. Rich will take care of it.

\*Marcel will get the keys from Troy Brown.

### Tennis courts:

\*Karen Melfi will get her son to help her remove the mesh netting before the winter.

### Grounds/Landscaping: Dan Dowell, absent Report given by Rich Hagan

\*Marcel walked the grounds this week and saw, and has heard grumblings about the mowing isn't being done often enough or hasn't been done in awhile. He asked about the areas behind homeowner fences where the owner has been asked to mow – what, if anything is being done in those areas? What about the high clover in some areas such as non-irrigated area along Pierce? Rich answered that when people call and ask about these things, get it to Dan. He also questioned mowing a whole area for a few areas of "high clover."

\*Rich reported that Dan Dowell said the mowing is about 1.5 weeks behind schedule.

\*Final application of fertilizer will be applied next week.

\*Final mowing of the open spaces will occur next week.

\*Sept/Oct – trimming of trees and bushes

\*October – shut down sprinkler systems, close up the equipment shed, and final report on water use on Tract F for this season

## **COMMITTEE REPORTS**

### Facility Improvement: Rich Hagan

\*It would cost less than \$2000 to put in a light by the Pool gate and add more security/protection to that area.

\*The dying plants along the newest retaining wall – above the irrigated native grass area east of the tennis courts – is caught up in a dispute between the nursery provider and the sprinkler installer.

### Website: Lou Day

\*Behind on data input

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\*Marcel asked Lou if he knew of online survey companies that provide, for little to no cost, online survey data. Lou and Marcel will look into this.

**OLD BUSINESS**

Delinquent Dues

\*After short discussion, the 4 remaining Directors gave approval to Kathy & Marcel to contact the attorneys about liens on these properties (any which are 1 yr or more delinquent – owe more than this year's dues.)

**NEW BUSINESS**

Perimeter Fence Policy Revision:

- \* Kathy Mohrbacher – good progress made tonight
- \* Lynn Cole will contact Mark regarding the revisions, if he doesn't respond, she'll contact Marcel.

Foreclosures and other Run-down Properties:

- \*Detracting from other properties? This needs to be addressed. Marcel will do some research such as asking attorney advice.
- \*Marcel, in driving, around feels that the DCV HOA properties are fairly uniform except for a couple of properties.
- \*Marcel will contact the Freeman's to answer their question about the Covenants and what they can expect and tell their realtor.

Troy Brown's Director Resignation

The Documents allow Board action to appoint for the remainder of the unexpired term.

Meeting adjourned.

Respectfully submitted,

Eileen Parker, Secretary