

**Cat Mountain Homeowners Association, Inc.**  
**Board of Directors Meeting**

**Date:** Minutes for the meeting of June 11, 2007

**Time:** 6:30 pm

**Location:** CMHOA Clubhouse, 6007 Mt. Bonnell Road, Austin, TX 78731

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**1. Call to Order:** 6:31 p.m. Present at the meeting were Board Members Mr. Adkins, Mr. Joseph, Ms. Jastram, and Mr. Johnson; and Ms. Arnold (Association attorney), and Mr. Chargualaf (Association manager).

Others in attendance included Mr. Thomas, Mr. Prestwood, Mr. Duly, Mr. Conley, Ms. Ladd, and Ms. Adkins.

**2. Member Forum:** No new issues or questions were presented by members in attendance.

**3. Approval of Minutes:** Draft minutes for review, correction and approval.

- a. Mr. Joseph had one correction which he passed along to Ms. Jastram.
- b. Mr. Adkins inquired of the Board as to their desire to maintain minutes as complete as those for the May 14 meeting. The Board was in agreement that it was useful to have detailed documents for future reference.
- c. May 14, 2007 Board Meeting Minutes — Motion by Mr. Johnson to approve corrected minutes, seconded by Mr. Joseph, passed unanimously by Board and subsequently posted to Association website.

**4. Financial Report:** Discussion of Association's financial activities and status.

- a. Mr. Adkins reported that Mr. Ma was unable to attend the meeting but had reviewed the financials and emailed the Board that the financial report and state of affairs appeared to be in good order to him. Mr. Adkins noted that he still had some problems with the formatting of certain reports but would work these through with Mr. Chargualaf and Ms. Brown (Association bookkeeper).
- b. Specific topics discussed included the following:
  - i. Developing a more straightforward and easier-to-understand aging report;
  - ii. Standard format for delinquency list [**Action Step:** Mr. Joseph to discuss with Ms. Brown a new format for such document];
  - ii. New policy concerning charge for blueprint copies; and
  - iii. Discrepancy in payroll tax expense.
- c. Mr. Adkins noted that with a new baby in the family, Mr. Ma might have less time available to devote to association matters, and that it might behoove the Board to consider soliciting a volunteer to assist in reviewing monthly financial statements. The Board extended permission to Mr. Adkins to pursue such a volunteer.
- d. A motion was made by Mr. Joseph to approve the financial statements as presented to the Board. This was seconded by Ms. Jastram and passed unanimously.

**5. Reordering of Agenda Items**

It was suggested that the Board defer its discussion of the Manager's Report and move instead to one of the items of Old Business, concerning 4401 Jessamine Hollow, since the owner (Ms. Treva Ladd) and her representative (Mr. Carl Conley) were in the audience. Ms. Ladd indicated a desire to videotape the meeting and there was discussion with the Association lawyer clarifying Board policy on this matter. It was determined that the meeting could be audiotaped and that Ms. Ladd could set up her videocamera as an audio recorder provided its video operation was not in use. [Note: The hearing portion of the meeting specific to the 4401 Jessamine Hollow situation was subsequently audio recorded by both Ms. Ladd and by the Association for its records.]

In view of the fact that there was need for additional set-up, preparation, and a conference between Ms. Ladd and Mr. Conley, the Board decided to move ahead with the Manager's Report.

**6. Manager's Report:** Discussion of Association projects, incidents, and owner issues.

- a. Mr. Chargualaf reviewed the items in his 5/12/07-6/7/07 Report.
  - i. Swimming Pool Repair – Mr. Chargualaf noted that because of the motion of the water, the plaster material in the pool was beginning to degrade and would need to be repaired before the next swimming season. The last repair occurred four [4] years ago.
  - ii. Verizon Tower Proposal – Verizon is still looking at alternative sites for tower placement. The location at the top of the hill is most desirable from the standpoint of coverage, however, it presents problems in terms of accessibility and extra development costs. This may make the flower bed alternative the more likely choice. In either case, when an agreement is near, the Association will undertake the installation of a light pole in preparation for CMHOA to then lease the pole to Verizon. Any out-of-pocket costs for the Association will be passed on to Verizon as part of the arrangement, so that the Association only stands to benefit from a financial standpoint.

Board members inquired as to coverage in the different locations. The bottom site has 40 percent coverage; there is a 20 percent increase at the gazebo site; and the hilltop offers a 70 percent coverage.

It was noted that this extra light would also solve some of the reported problems of teenager parties that have been occurring in this area.

- iii. Homeowner Complaints – Mr. Chargualaf quickly reviewed the various homeowner issues, actions taken and what follow-up was in process.
  - iv. Mt. Bonnell Flower Bed – Mr. Adkins reported that he had driven by these beds and noted that other beds in the area seemed to be flourishing while these particular beds languished. He suggested that it might not be a simple deer problem and that the problem warranted additional research before expending funds to replace flora. It was suggested, and the Board concurred, that the item be tabled until the next meeting in order to investigate further how the other beds are planted and how the four-tiered flower bed might be made into similarly healthy beds.
  - v. A final item had to do with the Clubhouse siding repair. Mr. Chargualaf has put the job out for bids with eleven [11] contractors and heard back from six [6] that estimates would be forthcoming, none of which have yet been received.
- b. Mr. Adkins inquired of Mr. Chargualaf whether the Association Charter made it necessary to hire only licensed and bonded professionals for Association work. Mr. Chargualaf's response was that this was simply the practice of the past Board to avoid potential liability in the event of an accident. The Association attorney advised that the current Board should look at any particular job and determine level of risk, utilizing licensed professionals where warranted but also having the flexibility to use a handyman on a smaller job with little or no risk involved. She reminded the Board that CMHOA does carry insurance to provide protection for liability, although she warned that such policies rarely covered poorly-done work and that it would be difficult to collect damages in such a case.

**7. Old Business**

- b. 4401 Jessamine Hollow – Repairs Required by the Association

The second matter before the Board concerning this same property pertained to getting a status report from Ms. Ladd about ongoing repairs and setting in place a firm schedule for remaining repairs on her property.

Mr. Adkins inquired of Ms. Ladd if she had had the opportunity to review the letter dated May 9, 2007 that he had sent regarding a proposed schedule for home repairs. Ms. Ladd referred to a second letter dated May 30, 2007<sup>1</sup> from the Association attorney, Ms. Arnold, and said she would respond to that.

Ms. Ladd noted that items 1, 2, and 4 were in process; that item 5 was in progress but that she wouldn't be able to make the July 31 deadline<sup>2</sup>; and that item 3 would be undertaken as soon as she knew what color she could paint the south wall. She added that she was still getting estimates on items 3 and 5. Ms. Ladd said she would be glad to repaint the south wall blue or white but that repainting the whole house at this time would cause her an economic hardship.

Mr. Adkins suggested that Ms. Ladd bring the Board some color samples that were in keeping with the rest of the house and that they and/or the ECC, would be glad to review them and approve or not approve the color selection.

Mr. Conley asked if Ms. Ladd were to submit a sample, say a brown or an earthtone, that was compatible with the rest of the house, if this would satisfy the request. Mr. Adkins said that sounded fine, that the goal of the CMHOA was to avoid repainting it electric blue or any other color of blue, but that anything in keeping with the brown tones of the house would probably be fine. Ms. Ladd clarified that to paint this one wall brown would satisfy the board. Ms. Arnold suggested that Ms. Ladd just submit the samples of colors to the Board, whether these be brown or white or whatever, and the Board would review her choices and get back to her.

Mr. Joseph clarified that these paint samples would actually go through the ECC and the Board concurred. It was suggested that Ms. Ladd just submit the samples to Mr. Chargualaf and that the ECC would review them at their next scheduled meeting. It was noted that the ECC meets the first and third Monday of every month, providing there is business brought before it.

Ms. Arnold requested a commitment to a deadline by Ms. Ladd on submitting these samples and then, once approval is obtained, how long thereafter it would take to complete the work. Ms. Arnold said that she would answer this question on estimates and times when the Board provides a response on the flooding problem. Mr. Adkins stated that the two matters are not connected.

*It was requested that the Board take a short 10-minute break. The Board reconvened at 9:03.*

The discussion returned to securing estimated completion dates on the various projects underway or yet to be undertaken. The Board and Ms. Ladd agreed to the date of June 25, 2007 for submission of paint samples. It was also agreed that Ms. Ladd had 2 months after approval of the paint samples in which to complete the work on item 3, repainting the south wall.

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1. Repair or replace damaged gutters on the front of the house, above the garage doors.
  2. Repair or replace the north edge of the roof above the garage, which is deteriorated.
  3. Repaint the south wall of the residence; the current paint is flaking off in multiple places.
  4. Repair or replace the fence on the north side of the property; the supporting structure is deteriorated and many of the pickets must be replaced.
  5. Repair, replace, or remove the deck in the back yard, which is in a state of disrepair and an eyesore.

*From a letter from the Association attorney to Ms. Ladd dated May 18, 2007*

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- The Board expects the work identified in our attorney's March 30 letter to be completed by the following dates:
1. Gutters — June 30, 2007
  2. Roof — July 31, 2007
  3. Repainting — July 31, 2007
  4. Fence — July 31, 2007
  5. Deck — July 31, 2007

*From a letter from the Association president to Ms. Ladd dated May 9, 2007*

The Board and Ms. Ladd agreed to the following schedule:

Items 1, 2, 4	July 31, 2007
Item 5	August 24, 2007
Item 3	September 3, 2007 (assuming prompt action by the ECC on July 2, 2007 and acting by July 5, 2007)

Mr. Adkins inquired if Ms. Ladd, Mr. Conley, or any Board member had additional information to impart, or if there were any questions left unanswered. There was agreement that the issue had been covered in sufficient detail. Mr. Adkins concluded this portion of the meeting and thanked both Ms. Ladd and Mr. Conley for providing their time and information during this topic.

c. Verizon/MDL Proposal

It was noted that this issue was dealt with in the Manager's Report.

d. Clubhouse Siding Repair

It was noted that this issue was dealt with in the Manager's Report.

7. Committee Reports: Status of committee activities:

a. ECC Report

Mr. Chargualaf gave the report for Mr. Thomas who had left a bit earlier. The ECC approved a landscape request on Twin Valley Cove where two neighbors are redoing landscape that involves going over a ditch on the south side of the house and adding a limestone retaining wall.

b. Reserve Committee Report

Mr. Joseph reported that the cost of the new electric 30-gallon water heater will be \$575 or \$559. This includes the service charge of replacing the heater and taking the old one away. It was suggested that the Board might want to check on the new tankless technology as the additional cost of such has quick payback and is more energy-efficient.

Mr. Joseph reported that the less expensive refrigerators are \$400-500 and that the more energy efficient models are about \$100-150 more. It was suggested that Kenmore and Whirlpool were the best rated brands.

c. Communications Committee Report

Mr. Joseph noted that the next newsletter is scheduled for late July.

d. Social Activities Committee Report

Mr. Joseph noted two possible upcoming events as follows.

- i. National Night Out scheduled for Tuesday, August 7 from 6-9 p.m. at the Clubhouse. The goal is to heighten crime and drug prevention awareness, generate support and participation in crime prevention efforts, strengthen neighborhood spirit and police/community relations, and send a message that your neighborhood is a safe place to live. The police come and meet the community, and the fire department brings their fire engines. CMHOA could serve ice cream cones to those who attend.
- ii. Movie Night for Kids. This might be held July 14 or July 21. It was suggested that postcards be mailed to the Egg Hunt list. Mr. Joseph hopes to extend this activity to next summer as well if this goes well. Popcorn and soda could be provided for those who attend.
- iii. Summer BBQ to be held either August 12 or 19. These are Sundays, and the BBQ will be held from 5-8 p.m. This year the first day of school is the 27th of August, so the 19th seems like a good day and attendance should be good.

e. Welcoming Committee

Ms. Jastram reported that they had not obtained additional items for baskets, however, the Board concurred that the most important thing was the personal touch of welcoming a new neighbor into the community. Ms. Jastram added that several of the new neighbors were bringing in talents that might be utilized at upcoming social events. Ms. Arnold suggested an email chat group in which neighbors could share suggestions on repair people and other practical information, especially to a new homeowner. She mentioned the Barton Hills neighborhood group as a model.

A final suggestion was to add in an official welcome to new neighbors at the upcoming BBQ.

8. New Business

The Board unanimously agreed to table New Business until the next meeting.

9. Next Meeting: Monday, July 7, 2007 at the CMHOA Clubhouse

10. Adjournment: Motion by Mr. Joseph to adjourn. Seconded by Ms. Jastram. The Board adjourned at 9:42 p.m. and then moved into Executive Session to discuss the Ladd Request.

## **7. Old Business**

### **a. 4401 Jessamine Hollow – Request for Association Action to Curtail Flooding**

The Board welcomed Ms. Treva Ladd, the homeowner at 4401 Jessamine Hollow, and her representative, Mr. Carl Conley of Conley Engineering, Inc. Additionally, the Board introduced each member to the guests.

Ms. Ladd wished to go on record as saying that she disagreed with the policy of disallowing a videotape. She noted that she had mentioned her house's flooding problems to Mr. Chargualaf in the past but had never appeared before the CMHOA Board in this context, even though previous Boards had invited her to do so. She noted that she had seen the Board's engineering reports but had brought along her own engineering representative to provide another viewpoint on the problem.

Mr. Conley introduced himself again and gave a brief recitation of his more-than-30-years experience as a civil engineer as well as his experience with the property at 4401 Jessamine Hollow. He identified his view of the problems of stormwater run-off on Jessamine Hollow and the incremental effect of various factors on the Ladd property. The key factors he described as contributing to the overall effect of water diverting to the Ladd property included a neighbor's driveway, which caused the water to jump off the road and reflow toward the Ladd property; a storm drain that might or might not be rendered less effective by virtue of unremoved debris; the overtopping of the road around year 2000 which in his view may exacerbate the problem and make the curb less effective than when originally installed.

It was noted that Jessamine Hollow is a private Association road and therefore maintenance of such is an obligation of CMHOA and not the City of Austin.

Mr. Adkins noted that CMHOA has engaged three [3] professional engineers to survey this situation, one of whom [Andrews Consulting Engineers, Inc. ] has provided an extensive written report replete with photographs and diagrammatic illustration, all of which was furnished to Ms. Ladd and the other Board members well in advance of the meeting. Verbal reports were provided to the Association by the other two engineers.

Mr. Joseph inquired as how much water the current storm drain in front of the property could handle if the drain were clean and kept clear of debris. Mr. Conley answered that the inlet that is there now would be adequate if the water could get to it.

Mr. Curtis inquired as to what conversation there may have been with the neighbor as to the possibility of reconstructing their driveway to keep the water aimed at the storm drain instead of jumping track and running off into the Ladd property. Mr. Conley said he had had no conversation to that effect and noted that the driveway in question appeared to be a standard county driveway. Mr. Conley noted that it might be possible to reconstruct that driveway in such a way as to avoid the problem; however, he felt that the most effective solution to the problem was to install a curb inlet upstream to catch whatever water was coming down the street and lay about 40 feet of pipe to transport the water over to the existing storm drain, bypassing both the water-jumping driveway and the Ladd property. He estimated that the cost to the Association should run about \$11,000; however, he later concluded that with necessary engineering costs and city licenses, it was more likely to have a total cost of \$19,000 to \$20,000.

Mr. Conley reported that in his view the situation was a concentration of flow problem and that it was difficult to see except under the conditions of a big storm where the momentum of water could be observed to jump the curb and be directed toward the Ladd property. However, based on this hypothesis, he did run an experiment by opening up the fire hydrant upstream and observing the flow of this amount of water, which he considered replicating a major storm situation. Mr. Conley offered to run a similar test for the Board and confirmed to Mr. Joseph that he was 100 percent confident in an identical result to such a test.



Mr. Adkins asked, were a drain inlet and piping to be undertaken, whether this would solve the problem. Mr. Conley said that, designed correctly, yes. He added that it would of course be necessary to ensure that the storm drain remained clean and free of debris and that the Association monitor the grade level of the roadway. The major issue at present is the water jumping over the curb and this is the one that needs to be addressed.

Mr. Adkins inquired as to whether there were things the homeowner could undertake or could have undertaken over the years on her property to protect it. Mr. Conley responded positively, saying that a number of steps could be undertaken, including taking out the existing grade inlet near the garage, replacing that, and thereby increasing its capacity. He mentioned another alternative of putting up a barrier wall. The cost of such repairs would probably approach \$11,000 to \$12,000 for the property owner. Mr. Conley said it would be a matter of setting up a meeting with the adjoining property owner and finding a way to redirect the water somewhere else.

Mr. Conley reiterated to the Board that it had been his understanding and that the City of Austin and/or Travis County is adamant these days about no water leaving the right of way onto the adjoining property owners lands -- even a very small amount. Rather, these entities require getting the excess water into a storm system beyond the residential property.

Mr. Adkins noted that this particular street has a fairly steep grade and inquired of Mr. Conley, had he been purchasing a home on this street, whether he would have been concerned about water flow. Mr. Conley answered that he certainly would have been but noted that the full situation may not be readily evident, in particular the effect of the adjoining neighbor's driveway. Mr. Conley noted that several driveways on the street are constructed in a similar manner and that it was apparently the builder's methodology of how to do the best they could to intercept the flows. Mr. Conley reiterated that in this particular case, if the water could make the turns and there was no driveway adjacent upstream to the Ladd property and if the water could be directed into the entire length of this grade inlet, it would probably handle it. However, because the grade inlet was constructed rather poorly, it does have a tendency to clog up with debris and requires some level of continual maintenance. Further, he added, the adjacent driveway literally intercepts and launches the water in a different direction. All of this added together creates the overall draining problem in his view.

Ms. Jastram inquired as to whether there was any flooding before the overtopping. Mr. Conley said that theoretically there may have been. He clarified by saying that they [his company] were just called out to assess the drainage issues of the property as part of the purchase of the property and just evaluating the house in general and in that they didn't really identify the problem in the beginning until they performed the fire hydrant flow test to see how much water was making it to the grate inlet at the top of the driveway. By doing that flow test, they saw the reality of how the flow was jumping over. Mr. Conley noted that even with the water jumping the curb, it wouldn't be so much of a problem if it went between the two houses; however, because of the topography and landscape improvements and walls and such, the water gets directed right at the Ladd house. By the time that electrical boxes and gas meters are moved and landscaping done in order to create new drainage ways for the water, the homeowner would be running into considerable expenses. Mr. Conley reiterated that in his estimation the most positive way to handle this would be to an inlet, maybe just a 5-foot long inlet, upstream of the adjacent driveway and put a 12- to 18-inch underground storm pipe over to the existing storm drain system.

Mr. Adkins inquired as to when Mr. Conley was hired to do this study and by whom. Mr. Conley replied that the initial report was dated 1991. He said they were contacted by an attorney on behalf of Ms. Ladd to investigate the situation drainage-wise. Mr. Conley said he didn't know if study results would make or break any purchase.

Ms. Arnold inquired of Mr. Conley what he thought of the suggestions posited by Mr. Andrews in his [Andrews'] report, including building a wall to divert the water and/or adjusting the hump in the driveway to keep the water out. Mr. Conley agreed that some of these solutions might work but would need to be studied to ensure no adverse consequences such as access in the case of the driveway. Ms. Arnold also inquired about the cost of the fix Mr. Conley had suggested, noting that in 1991 he pricetagged it at \$10,000 and that, given inflation,

one would think it might be in excess of \$11,000 in today's market. Mr. Conley said it would simply have to be determined by the market.

Mr. Thomas provided as an example of driveway humps the street of Twin Valley Drive and how every drive-ways on the slopeside had driveway inclines that were at least curb height and that this seemed to prevent any problem for these houses. Mr. Thomas noted that there was nothing of curb height on Ms. Ladd's property, saying that whomever had designed that had done it in such a way that was very detrimental to her best interests.

Mr. Adkins noted that driveways to the left of Ms. Ladd's property did have this rise to the curb height.

Mr. Conley added that the condition that Mr. Thomas and Mr. Adkins were describing is consistent with the standards of Travis County and City of Austin. With this being a private street and not knowing exactly when the subdivision was being built, but estimating that it was in the 1982-85 timeframe, Mr. Conley said this was the "boom days" of Austin building, and whether the inspection was done by the City or the County, there's a good chance there never was a driveway inspection and subsequently it was left up to the contractor to put in the driveways to whatever standards they thought matched the conditions.

Mr. Adkins posited that maybe the design of the driveway was at fault from the beginning and has remained at fault over time. He asked Mr. Conley whether it was impossible to retroactively fix this driveway in the manner that other driveways on that street had been built initially and not been subject to these problems. Mr. Conley said it would take a detailed study to check elevations and make sure whether it would or would not work.

Ms. Jastram inquired of Mr. Chargualaf if any of the houses on Northwest Place had experienced similar problems. Mr. Chargualaf replied that one house had had a problem after undertaking a landscape project that narrowed an inlet and thereby caused the water to jump the curb. The owner then modified the landscaping to correct the problem.

Another point of comparison raised was Hickory Hollow. It was noted that all the driveways on the street have a hump or rise. Even with the overtopping that has been done, no homeowner has experienced a flooding problem.

Mr. Chargualaf stated that there were three other houses on Mountain Villa Cove that had experienced a flooding problem. None of these driveways had a hump. The fix involved homeowners contracting to have a ditch dug to divert the water between two of the homeowners' lots.

Ms. Ladd asked the Board for response to her request for Association action in this matter, and Mr. Adkins explained that the Board would discuss the matter in an executive session, taking into consideration everything it had heard, make a decision on how to proceed and would notify Ms. Ladd in a timely manner by certified mail.

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