Empire Hills Condominium Association Annual Meeting October 21, 2017 9am til 12:10pm

I. Call to Order

Dave Hulick called the meeting to order at 9:07 am. Members in attendance: Jeanine Dean, Richard & Kimiko Williams, Jim & Deb Sills, Carolyn & Dave Wollenhaupt, Joe & Trina Ball, Marilyn Brager, Nancy & Mike Shaughnessy, Janet Davis, Robert Grooters, Bradley & Darla Butcher, Terry Byrne, Nancy Lindeman, Mary Hulick, Karen Truax, Sallyanne Morris, Karen Molloy, Jeff Peterson, Harvey & Mercelle Hanna, and Ron Deering.

II. Introduction of 2017 Board Members

Dave Hulick: President; Pete Brager: Vice President; Carlotta Meehan: Treasurer; Kathy Wiejaczka: Secretary; Bernie Meehan: Member at large; Jim Jackway: Member at large; & Frank Sciannella: Member at large (absent).

III. Approval of 2017 Agenda

Jim Sills would like to add the October 12, 2017 Board minutes onto the agenda, and placed after the ARC review on the agenda. Karen Truax discussed Annual meeting times. Sallyanne Morris made a motion to approve the agenda. Seconded by Pete Brager. Motion passed.

IV. Approval of 2016 Annual Meeting Minutes

Sallyanne Morris made a motion to approve; Dave Wollenhaupt seconded motion. Motion passed. Dave Hulick stated Board meeting minutes are on the Empire Hills website at empirehills.com

V. Treasurer's Report and Proposed Budget for 2018

Carlotta Meehan: stated it has been a good year for members paying dues. The total of expenses on the spreadsheet of \$11, 575 compares to the running total for expenses on the Treasurer's report. This Board moved \$40,000 to a long-term investment. Liquid assets are \$28,000. The rest of investments come due as listed on the Treasurer's report (see attachment). The current ending balance is \$172, 334 but there are still expenses to be paid in the next few months. Expense report is available to anyone that would like to see it. Jim Sills stated thank you for excellent work as treasurer. Anticipate a possibility of \$5,000 positive balance after expenses paid.

Jim Sills asked: What projects in the future? Carlotta: All extra funds go to the contingency fund/road fund. Road fund is top priority.

Dave Hulick stated there is a project to do more than filling in the cracks and includes common area maintenance; more details in Pete's road report. Dave Wollenhaupt asked what the interest rate is for the last investment that matures in 2022. Carlotta not sure, but knows that it's the market rate. Carlotta had bank account statements to verify all monies. All accounts have to be insured stated Dave Hulick, as per Condo Bylaws.

Carlotta: Proposed budget not approved by Board yet. Totals similar to this past year. Only \$22,000 to work with. Snow removal always contributes to uncertain costs.

Bernie made a motion to accept this report and Dave Hulick seconded it. All were in favor, motion passed.

VI. Road Committee Report:

Pete Brager: Road Committee: Members are Pete, Dave Hulick, Dave Wollenhaupt, and Bernie. The charter scope of this committee was to get an engineering analysis from Gosling/Czubak and develop recommendations and a plan (see attachment). These were approved by the Board. Gosling was recommended by Leelanau County Road Commission. Gosling did work for the Empire Village.

Asphalt initially installed was 1.5 to 2 inches, but later additions of asphalt were never added: 1.5 inches. Martin Graf worked up engineering study on our roads. Martin, the engineeer not able to attend this annual meeting. Great Lakes Striping and Sealing doing a very good job on annual maintenance of our roads. 2014 first year with Great Lakes Striping and Sealing and it cost \$4,400; in 2016, \$3,200; in 2017, \$1,200. Big difference in newer roads in lower part of subdivision compared to upper roads in subdivision; lower roads are in worse condition. Not sure why they are in worse condition. Lower areas of subdivision: #1; Area #2 upper areas of subdivision. Five Core samples were taken in the subdivision to evaluate the roadbed and determine how many inches of asphalt are present. Area #1 will be the first to have asphalt added in next 2 to 5 years, add 1.5 inches of asphalt in 2020 (Cost approximately \$50,000). Additional asphalt will be added to the upper half of the subdivision in about 4 to 8 years, (Cost approximately \$90,000). None of our roads are in bad condition. Road condition is rated 1-10 with a rating of 5 you need to do something. None of our roads were rated even a 5. Two areas of minor immediate concern: heavy cracked area in cul-de-sac, on S. Village Court, not draining properly. Grade this into the cul-de-sac to extend the life of the road. Another area of concern is the north entry where drainage is coming down the hill, the water misses the small drain and runs along the side of road and undercuts the road. Plan to add asphalt and a curb near this north entrance garden area. Two bids: Elmer's \$2,215; and Great Lakes Striping and Sealing: \$2,180. Awarded to Great Lakes. This will occur possibly this fall, also waiting on asphalt from Elmer's asphalt plant. Explanation for seal coat in Item 6 on "Recommendation for Road Work/Maintenance Plan" hand-out; this is a process where they lay gravel, and then run oil solution over it. There is a small potential for extending life of road, not cost effective with this method. On an annual basis we will review the status of the roads to determine when the extra layer of asphalt should be ultimately added. Address vegetation affecting roads and roots affecting the roads. Continue crack sealing yearly. If we get extensive cracking and the rest of the road is in good shape, consider infrared baking process to melt layers together. There will not be a need for a special road assessment fund because our bank investments will mature in time for these two major repairs.

Kent: The Road Committee did a good job. He does not recommend the tar and chip process at all because the plow will rip it up. Also, he stated there are not enough cars to push the oil into the gravel. He also stated that the bonding agent will adhere to the rubber of the second layer per his conversations with Elmer's. Infrared repairs must be done in bad areas. There are no guarantees with the second layer that the cracks will not mirror up. It is very important to stay on top of repairs with Great Lakes Striping and Sealing to help diminish this mirroring. With concrete driveways, Elmer's will need to cut them back when the second layer of asphalt is added. They need to slope them and blend them in with the road. Do we want concrete driveways in the future? Will cost more money in future when extra layers are added. Pete: Engineering estimates comparable to previous quotes.

Ron Deering: How costly to do entire roads, ripping them up? Pete: We don't have enough money for that; would be around \$500,000.

Karen Molloy stated new road redone downstate at her subdivision; city ran a bond for owners, \$17,000 per home for 19 homes. Does city pay here? No, that would not be the case

here. Special assessments would be needed if the Association did not have enough money in the bank. Lower portion of subdivision is in the village and upper portion is in the township. Joe Ball: Elmer's receptive to doing private driveways if anyone needs work done. Pete stated let him know if want your driveway re-done with asphalt, and be added when Great Lakes Striping and Sealing does there sealing and crack repair annually. You will pay for your own driveway, cheaper about a \$1 a foot.

Kent: Quality control when use Elmer's; it is a good company. Dave Hulick states they did a fantastic job when they built the roads in our subdivision because they only laid 1.5 inches of asphalt and it still lasted 17 years.

Pete: FYI: We always get two bids when any work is done in the subdivision.

Ron Deering: possible sewer in 2023 in the village and they might tear up our roads. Jim Jackway stated only Front Street in the commercial area in the village may get sewers. Bears watching.

VII. ARC Report

Kent Wiejaczka is Chairperson of Architectural Review Committee, other members are: Jim Jackway and Mark Chesney. Jim Jackway is also chairman of Vegetation Committee. ARC is available to help if building a home; they have 80 years of building experience among them and government and document creation experience. Kent stated that Jim Sills wanted proof from Ken in his email that the developer mistakenly did not tag some trees. Will be addressed later in this meeting.

Pete stated go to website empirehills.com There you will see consolidated into one document, not legally filed. There is a Road map document to help navigate through the documents. Dave Hulick states the original set of documents including Exhibit A and Exhibit B and amended documents from 2000 and 2002 are all original documents that are on this website. Those original documents are registered with the County Clerk. These Association bylaws on the website have been amended twice. If you are going to build a house look at the latest version and use the ARC for assistance. All Board meeting minutes and Annual Meeting minutes are also on this website.

Kent stated we are trying to consolidate 180 pages to 60 pages. It will take a future vote from the membership in a few years to approve this consolidation.

Karen Molloy asked if the gmail address (empirehillshoa@gmail.com) is different from the website. Dave Hulick confirmed that it is. Website address is empirehills.com

Jim Jackway is a member of the ARC and chairperson of the Vegetation Committee along with Ron Deering, Pieter Schous, and Carloyn Wollenhaupt. He has 45 years construction industry experience and working with building permits. It is very important for ARC members to know how to effectively read house prints. Mark Chesney is available via email and phone. Jim's background is this is the 4th HOA he's been a part of; and he was president of a Condo Assoc. for 6 years. Scope of work document was developed by his committee. There are seven items (see attachment: Vegetation Committee Charter and Scope of Work document). The developer removed many trees and over the last few years black locust have reached 20 feet high and pervasive autumn olive. Both of these spread very quickly. It is an ongoing challenge to keep these species at bay. There were nearly two car accidents from blocked views in our subdivision because of the overgrowth of these invasive species. Volunteers worked very hard to remove them and it was very strenuous work. We are becoming an older population in this subdivision. We cannot rely on unit members volunteering to get this heavy work done anymore. So we needed to identify contractors to do this work. There are many Lots filled with invasive species. The Board will only obtain bids for the Common areas. We

obtained three bids for removing trees: \$1,500 to \$3,000. There is a problem because tree companies do not want to remove invasive species, so he could only get two bids for invasive species removal. Private lots need to be addressed with overgrowth of invasive species and trees also. We will provide a list of these companies to unit members. In addition we needed to have the storm drains cleaned. Ron Deering volunteered his time and cleaned all of them except one which was totally blocked with sand. Elmer's gave a bid for 15 min per catch basin at \$300 an hour. Elmer's stated 30 minutes per culvert; approximately \$2,500 a year for cleaning them. Recommendations (see attached document Vegetation Committee Recommendations). We have a commitment to Leelanau County to keep the storm drains clear. We will evaluate the work of the company cutting the trees in the Common area and hire them for other work if we like the quality of their work. Mowing letter sent this week; we will mow vacant lots but not steep terrain areas. There is a big misunderstanding about trees that are blocking other unit members' views. Now we need to identify which lots have trees/brush blocking views that need to be removed. Second letter will let unit members know the problem and list of insured tree companies available for them to use if they wish. Third step: the Board is discussing. We've given you a chance to remove trees that are blocking views, we have the authority to have this vegetation removed per the current bylaws. This will take time. Survey stakes important to locate, must make sure that the trees are on the correct lot. Dead trees and trees in danger of falling over, we have to be sure we're identifying the correct lot. Common areas: near Jim Sills house, lots of trees there, it is important for us to find the survey markers. These trees and brush have been growing 15-20 vears. Trying to slowly develop a process to get back to the views that people had when they bought their properties. Want to get back to the views that we bought into. Vegetation is always an issue in every Association. Everyone likes trees, but if we want to avoid a lawsuit, we need to start enforcing rules that we already have. Otherwise someone could sue the Board or other lot owners. This association put together three bylaw Amendment changes. The reasons for Package #3 were because the Bylaws were written to favor the developer and limit the developer's cost. That is why Article VI has conflicting language. Section 6.3 and 6.4 are specific about who pays for the view obstruction. This was to insure that the developer did not have to pay for vegetation on unsold lots that blocked a view. The intent of the Amendment change was to eliminate the provisions that favored the developer and increase the height limitation to a common level that would not affect views.

There were some emails that went out by unit members that showed wildly misunderstood concepts related to the changes the Board had proposed to the Bylaws. Jim responded to those emails. This Board has worked diligently on these bylaw changes. We took them to the Association Lawyer. This attorney commended this Board as the most responsive he has ever seen in any association he has worked with. This Board has worked to update the documents along with several past boards. We are trying to get the developer's name out of the documents. It makes it hard for the ARC to do their job when false and misleading statements are distributed to members. The following quotes were stated in several emails from unit members. 1) Stated in the email from a member: "Decrease the value of our properties." It is exactly the opposite; it will increase the value of our properties, if we can maintain the views. We did not buy these lots for the invasive species. We bought for a view of the lake, the surrounding hills, and the island. We bought here for a reason and paid a high cost for these properties. 2) "Reverse deed contracts" is a misleading statement. This does not make sense to me. 3) "Allow neighbors to gain control of our retirement budgets." I do not see this and would need more explanation about this. 4) "Balance of pain." I don't think it's balanced when you intentionally do not cut vegetation and then expect your neighbor to pay for its removal so they can have their view back. That is not balance, that is not being a good neighbor. It's

selfishness. 5) "Past boards have not emphatically reminded us that plants, etc. be maintained *below a height of 24 inches.*" It is in the bylaws. We are all responsible for following the rules. 6) "Controllable versus non-controllable views." Basically the vegetation limit is 24 inches by the current bylaws. The views would be controlled if everyone followed the rules. 7)"No discussion at previous meetings or in the past minutes." The past 4 years at the annual meetings and in the Board meetings all year there has been many references to amending the bylaws to protect unit members' views. 8)"Keep the burden of removal costs on the *complaining/obstructed party."* This is the entire reason why the opposing writer who sent this email is against this amendment. Developers put language to protect their rights and limit their costs. If everyone did not block the original view there would not be a problem. The developer owned all the lots originally; he did not want to pay for tree removal himself, so he made the obstructed owner pay. Putting costs on someone else is not neighborly, and not fair. Neighbors don't put it on someone else. Ward Kuhn, the attorney stated a person can't remove certain sentences out of sequence without losing the intent of that rule. You can't apply a remedy, when you created the problem by ignoring the problem to begin with. 9) Only thing we changed in Section 5.8 is the height of vegetation from 24 inches to 48 inches. All other language is in the current bylaws. 10)"Section 6 has unclear language regarding who pays to have a view blocking tree removed." It is quite clear. The Lot owner who is blocking the view with vegetation they have allowed to grow, must pay and that occurs with both the old bylaws and the proposed new one. The obstructed lot owner should complain that their view is being blocked, and then the vegetation would have to be cut and paid for by the obstructing owner. 12)"Board will be taking control of our lots." Completely false. 13)"No new plantings allowed." We tried to raise it to 48 inches and 96 inches, instead of the current 24 inches. Trying to make it easier to landscape, as long as it doesn't block someone else's view. Some lots did not sell because of this restriction, potential buyer backed out of the deal because of this 24-inch restriction. 13)"When I was President of EHCA I always tried to be as inclusive as possible." When you are on the Board, you must understand and enforce the bylaws. Board members must do these two things. 14)"Assume 24 inches to be typo, that was actually meant to be 24 feet." This is ridiculous. No developer would allow view lots with 24 foot vegetation.

15) "On what basis were these heights determined?" I assure you these were not arbitrary numbers. 48 inches relates to the current allowance for vegetation screening. Kent will elaborate further on this. 16)"Co-owners should not be penalized retroactively for the lack of action from past boards." Vegetation is always an issue. Previous boards should have enforced the 24-inch bylaw and cut/mow lots. 17)"Twice we asked how the proposed bylaw will be enforced?" Three step process and the condo bylaws provide for enforcement. 18) "ARC will remedy conflicts, thereby becoming plant police and jury." Not true, ARC will only assist and advise. 19)"Conflicts of interest." I do not know of any. 20)"We asked twice by email and twice in person to see drafts and were refused." The Vegetation committee met in June for the first time, cleared flowerbeds, and removed invasive species from the edges of the road. We gave our recommendations at the end of August. There was not a lot of time to get it out to members. No one has asked him for input. Over half the present residents in EH had input into these proposed Bylaw changes: the Vegetation committee consists of 4 people, the Board has 7 people, and Ward Kuhn. We are trying to keep it fair for everyone.

21) "All of us, not just the Board need to be involved in crafting the bylaws." The ARC, the vegetation committee, the Board and the Lawyer were all involved. This is how our representative government works. In our country there is representative government. We will never make everyone happy. We are volunteers tryng to get it right. Everyone has a right to express their opinion, but let's be factual.

Kent: ARC Committee Chairperson: Kent Wiejaczka responded to Jim Sills email because it was sent to all members asking for Kent to show the proof regarding Kent's statement that the developer mistakenly did not tag trees left standing. Kent states Jim Sills could have called him personally for clarification instead of sending out an email to 79 unit members. The creation of this subdivision was 6 months of work with the Empire Township Planning Board and Empire Township Board. This subdivision needed approval from the Empire Planning Board. There were 5 members on the Planning Board with one member also an elected official to perform as a liaison between the Planning Board and the Township Board. This fifth member, an elected official was Kent. He communicated back and forth from Planning Board to the Township Board. After a public hearing on January 19, 2000, Kent made a motion after a presentation by McKeough, the developer of Empire Hills. This motion was to approve EH based on 4 conditions: one of those was to provide a current land survey that included the tree plan. There was a concern regarding lake and countryside views being controlled for the residents in EH. This was very important to the Empire Township Board members. View property has higher tax revenue, so the Township Board wanted to be sure control measures were in place to protect those views. This land survey is your proof; it is Exhibit B, your land on paper. (Go to empirehills.com to the 1st Amendment to the Master Deed: 2000; at the end of this document: survey sheet # 8; and 2nd Amendment to the Master Deed: 2002; at the end of this document survey sheet # 7 & 9). It shows what trees were tagged and allowed to stay in this subdivision. You can't argue with the tree plan. It is recorded with the County Registrar. There are more trees on some lots than what is on this land survey, something is amiss. Developer did not cut all the trees he should have. Karen Truax stated that Exhibit B shows trees there were saved and free to grow. Other trees were to be trimmed. She owns Lot 16 and there is a whole row of trees, 8 feet tall in the year, 2000, probably supposed to be trimmed. They are not on this land survey. Kent says they should have been cut all along. Karen wonders if untagged trees only need to be cut if obstructing a view. Kent says vacant lots require annual cut **and** mow per the Bylaws. Cut vegetation to keep from blocking a neighbor's view. Bylaw says unnumbered trees and vegetation on lots including those planted need to be cut annually so they do not block a unit member's view. Trimmed and removed in a manner to protect views. She believes vacant lots only need to be trimmed/removed if someone complains. She agrees that you cannot block someone's view.

Kent: Exhibit B, and warranty deed are proof that a unit member received this land survey. This is part of your contract.

Richard Williams owns lot 61 has a 45-foot birch tree not blocking a view. Do I have to cut that tree?

Ron Deering stated no one is going to clear their lots. No reason to cut a tree that's not blocking a view. Only if someone complains.

Kent stated that the Board needs to decide. View property and invasive species need to be addressed. Trees will grow and block views. This subdivision is view property. All properties have to support this. Three people backed out of buying lots because of vegetation concerns. This needs to be fixed.

Terry Byrne asked if there's an appeal process for any decision regarding trees.

Pete: ARC takes the information, then in the event of a dispute the appeal is to the Board. Final authority is the Board. Lawyer stated he has never seen an association more financially stable than EH.

Kent stated Package #2 is 90% original language (cupolas removal was extra). The ARC is already allowing these proposed changes in Package #2, such as: a) High quality PVC siding;

b) Any approved siding on chimney chases; and c) Screening around air conditioner units and generators to be either vegetation or man made materials. The dotted lines on the drawing document is the building envelope showing different heights for vegetation around a house (attached). The vegetation heights in the proposed bylaw changes were determined as following: 96 inches because a single story wall is 8 feet tall; 48 inches because there is already a bylaw that requires pools and hot tubs must have fencing at 48 inches; Screening is 48 inches also. We are trying to make everything consistent. Also, grass is 48 inches.

VIII. Discussion and finalization of voting on Proposed Amendments

Jim Sills: Minutes from last Board meeting on October 12th: Page 8; asked about the 5 minute deadline for talking. Dave Hulick stated this is for the Discussion section.

Jim Sills: Language on Page 6 of October 12th Board Meeting; is that bylaw for vacant lots or all lots with houses?

Dave Hulick stated that only applied to vacant lots. Mowing/cutting lots is for vacant lots. Jim Sills stated on Page 7: Board can go on your property and cut vegetation at owner's expense. Does this apply to all lots or vacant lots only?

Dave Hulick stated it applies to all 80 lots both with houses and vacant lots.

Trina Ball stated the Board can only access properties if emergency repairs are needed. She could not find anything else in the bylaws.

Dave Hulick: Liber 514, Page 468. On website: Master Deed. Violation of condo bylaws gives association the right to enter any unit where reasonably necessary and remove and abate at the expense of the co-owner if something is maintained contrary to the bylaws.

Jim Jackway stated this is common language to all HOAs.

Dave Hulick stated this may become necessary on South Roen regarding a dead tree near the edge of the road and overhanging onto the road causing a dangerous situation. We will contact owner to cut that tree.

Trina stated that Bill Cashier was mowing lots to keep vegetation down back in the beginning of the subdivision. Then Chris McCrumb (General manager with the developer) told her to stop the cutting because they needed permission from lot owners to cut/mow.

Bernie stated that the developer stated several mistruths. Have to go by **written** bylaws. Jeff Peterson stated he would have to pay for the trees and we are trying to clarify this and he appreciates the Board for taking this step because there are trees obstructing his view of the island.

Jim Sills asked for clarification that he attended a Board meeting on October 12th, and asked if Board meetings are open. Also, is there a Board policy regarding closed meetings?

Dave Hulick stated that Board meetings are open but must ask to attend or be invited. Dave stated they are not closed, but FOIA does not apply because we are not a government body. These are private meetings but unit members can ask to attend. We also may invite someone to a Board meeting.

Pete stated the whole idea is to have control of the number of people attending because they are held in Board members' houses.

Kathy Wiejaczka stated that the next scheduled Board meeting is always at the end of the Board minutes.

Kent stated unit members can call a special meeting with one third of vote from unit members. Karen Truax made a recommendation that we postpone the vote on Bylaw changes, we need more time to discuss this. Karen made an advisory motion for a special meeting of unit members to discuss package 2 and 3 at a time after May 1st and Skype it. Kent seconded it. Dave Hulick asked for a vote from unit members. Unanimous vote by show of hands. Dave Hulick stated package #1 passed regarding electronic voting (53 votes; 52 required per bylaws). Karen recommended Skype for the out of state unit members.

Package 2 and 3 did not pass because the vote was withdrawn.

Terry Byrne asked about appeal process: cut a branch, not the entire tree. Let unit members work it out. Needs to be put in an amendment package.

Trina Ball stated she has complied with the bylaws by removing all autumn olive, spent \$1,600 taking down trees. She did exactly what was in the bylaws. She has enjoyed this discussion. She would have liked to have seen what the lawyer said.

Dave Hulick stated that the verbiage from the lawyer meeting was changed to some degree by the Board.

IX. 2018 Board Election and ARC appointments

Dave Hulick stated there are more people running than there are board seats.

Karen Truax stated she feels there is a conflict of interest regarding the proxy votes, that the Board members and potential Board members should not use the proxies they have to vote for a Board member.

Dave Hulick stated we will consider her suggestion for next year and possibly mail ballots with the package next year.

Kathy Wiejaczka stated that proxies were given to members with the intention of those members voting for whatever vote took place during the meeting including election of Board members. Absent unit members were aware and agreeable to this.

Dave Wollenhaupt stated this board of 7 is the most businesslike he has ever seen, he has worked on several committees in the past year with this Board. He would like to see the current 7 Board members remain.

Jim Sills stated this board has worked very hard, he is not running specifically against any of the current Board members.

Jeff Peterson stated Board has done a great job.

Carlotta stated that Bernie has been secretary and president and member at large for past 10 years.

Deb Sills commends the Board last year for increasing the size of the board to 7 members. She stated this is the best thing that has happened to help with the workload.

Dave Hulick: Results of Board vote: 36 vote for Current Board Members/19 votes for Jim Sills; Current board to remain.

ARC members will remain the same.

X. New Business (including member discussion items):

Karen Truax asked about the request she had to move the meeting either to noon or in the summer.

Dave Hulick stated that he had 6 responses to her email and the majority said to leave it alone.

Dave Hulick stated we will ask members if they **DO NOT** want their contact information shared, we will remove it from the Contact sheet that is sent to all members. Please send a message to Kathy Wiejaczka within 2 weeks if you DO NOT want your contact information shared with other unit members.

In two weeks, the contact information for unit members will be sent out to all unit members. 12:10 pm: Motion from Pete to adjourn this meeting; seconded by Carlotta. Motion carried. Signature of Secretary: Kathy Wiejaczka Date: October 29, 2017