

**HAYDEN LAKE RECREATIONAL WATER AND SEWER DISTRICT
MINUTES OF REGULAR MEETING**

March 26, 2008

CALL TO ORDER:

The first regular March meeting of the Hayden Lake Recreational Water and Sewer District ("District") was called to order at 5:00 p.m. by Chairman Gerry House. Also in attendance were Tom DePew, Ken Sewell, Dave Weinstein, and George Anderl for the Board. Larry Comer, Ken Thompson, John Austin, Dustin Jacobson and Michael Schmidt were also present as representatives of the Board. Sandra Young and Ed Appleseth were also present.

AGENDA APPROVAL:

The Board first considered the Agenda for the March 26, 2008 meeting. Board member Tom Depew requested that the Honeysuckle easement issue be added for discussion. John Austin requested that the LID Ordinance be added for interim financing of the Lancaster LID. Larry Comer and Sandy Young requested that the Hayden Lake Marina project be added for an information update by Sandy Young to the Board. Tom Depew moved to approve the Agenda, which motion was seconded by Ken Sewell, and thereafter unanimously carried.

OPENING COMENTS

Gerry House notified the Board of the upcoming aquifer meeting.

APPROVAL OF MINUTES:

No minutes were presented for approval.

FINANCIAL REPORT:

Ken Thompson presented the invoices for approval. Mr. Thompson noted that there appeared to be an error in the report, in that an invoice was included which should have gone to HARSB. The error was then confirmed by Larry Comer and Mr. Thompson. George Anderl requested further information on the \$21,000 bill to Welch Comer. Gerry House, Ken Thompson, and Larry Comer indicated that this included the bill that should have gone to HARSB. The Board then discussed approving the invoices as presented, but subject to the removal of the erroneous charge to the District. Tom Depew moved to accept and pay the invoices, but omitting the improper bill, which motion was seconded by Dave Weinstein, and thereafter unanimously carried.

Ken Thompson then presented the financials, and noted that the Board presently had a healthy general fund due to the incoming funds from the recent bills that were sent out. Mr. Thompson also pointed out that the LID reserve fund was healthy at roughly \$175,000, and that the District was in a good position with the most recent Lancaster LID in that it did not to come up with sizeable funds for the guarantee fund.

Gerry House then advised the Board that HARSB financial planning advisor was looking into ways to save money, and working on becoming more financially efficient for the present and future, including future treatment infrastructure and heightened limitations on phosphorus. Tom

Depew moved to approve the financials, which motion was seconded by Dave Weinstein, and thereafter unanimously carried.

ATTORNEY REPORT:

Michael Schmidt discussed the will-serve policy, and the ongoing coordination with Kootenai County related to the coordination and review of site disturbance plans. Mr. Schmidt informed the Board that, based on his conversations with Pat Braden, the County was initially very eager to enter into an arrangement whereby the District would review site disturbance plans in connection with requests for will-serve letters, and then provide its recommendations and findings to the County in an advisory capacity. Dave Weinstein asked whether the County appeared willing to actually authorize the District to undertake these actions as an agent. Mr. Schmidt advised that it appeared the County would be willing to enter into an agreement, and specifically deligate the District as a limited agent for purposes of reviewing site disturbance plans, provided the County would have the ultimate authority and determination on the issue of whether to approve the applications.

VISITOR COMMENTS:

Sandy Young discussed a project that was being planned by her client, (Mark Graham) for the Tobler Marina area so that the District would simply be up to speed and involved from the beginning. Ms. Young expressed her and her client's commitment to Hayden Lake and the Site Disturbance Ordinance, and indicated that she was assisting the engineers in preparing the site disturbance plan for the project. She further advised the Board that the addition of vegetation on the lake side of the building would correct a condition that is potentially unhealthy to the lake in terms of sediment running into the lake. Ms. Young informed the Board that she is working with "Joe" at the Lakes Highway District on access issues, and that access was likely going to be off of Tobler Road.

Ms. Young then presented conceptual designs, which included underground parking, four story structures approximately 75' tall, for three condo buildings with four units each. She indicated that the number of ER's the project would require was approximately 12, assuming one per unit. The need for purchasing ER's would depend on the number of ER's already allocated to the Tobler Marina building. Ms. Young requested information on confirming whether capacity was available in the sewer lines, as well as at the treatment facility. Gerry House and Larry Comer advised her that two other projects had requested a similar study, such that it may be in everyone's best interest to coordinate a joint study. However, nobody had formally approached the District to request the study be undertaken, nor had anybody paid for the study. Gerry House asked Larry Comer to coordinate the four-way study, assuming that is what the parties responsible for the projects desired. Mr. House also advised Ms. Young that treatment capacity at the treatment plant is not a certainty at this point because of the pending requirements of the City of Hayden Lake, which could conceivably take up all or nearly all of the remaining capacity before the plant is expanded.

Ed Appleseth next requested that the Board consider his offer to grant an easement to the District upon payment of \$15,000. The easement would be to cover an existing sewer line running underneath his property. Mr. Appleseth stated that he had to change the plans for his

home in order to accommodate the existing line, and explained that he did not know of its existence when he obtained the property.

EXECUTIVE SESSION

Ken Sewell moved to convene into an executive session under I.C. § 67-2345 to conduct deliberations related to acquiring an interest in property not owned by a public agency, and to discuss possible litigation. Said Motion was seconded by Tom Depew. A roll call was conducted by attorney Mike Schmidt, recorded as follows: Ken Sewell: aye; George Anderl: aye; Dave Weinstein: aye; Tom Depew: aye. The Executive Session convened at 5:50 pm, and concluded at 6:05 pm.

Ken Sewell moved to approve the Board's position as clarified in Mr. Schmidt's March 26, 2008 letter to Mr. Appleseth, as presented to the Board.

CONTINUED VISITOR COMMENTS

Attorney Mike Schmidt advised Mr. Appleseth that the District would not pay \$15,000. Mr. Schmidt further advised Mr. Appleseth that the District most likely already had an easement by prescription, and explained that an easement was executed on March 23, 1987 by the prior owners of the property, Gustav and Jeanette Harras. Thereafter, the Harras' attorney, Mr. Howard Anderson, forwarded the executed easement to Edward Wroe with the understanding that the line was placed within 15 feet of the western property line. Because of this letter, Mr. Wroe did not record the easement and requested confirmation from the engineers regarding the actual location of the sewer line. The survey indicated that the line was actually located outside of the area at one location in order to avoid destroying two cedar trees. Thereafter, Mr. Wroe forwarded a letter to Mr. Anderson advising him of the same, and requested that the new survey be attached to the easement and recorded. There were no further records of correspondence after that time.

Mr. Schmidt therefore advised Mr. Appleseth that, because notice was given to the Harrases at that time, the statutory period for adverse possession began to run, and the District would have acquired an easement in the property long ago. However, litigating to quiet title to this easement would cost all parties money. Therefore, in an effort to be fair to Mr. Appleseth, as well as reasonable to the District's tax payers, the Board had authorized a settlement figure of \$4,196, which was the estimated value of the easement area and limitation on use as determined by Sandy Emmerson, a real estate appraiser. Mr. Appleseth rejected the offer as too low, but indicated he may be willing to consider that amount if the District would pay for his attorney fees of \$2,800. Mr. Schmidt delivered a letter containing the prior offer to Mr. Appleseth. Mr. House advised that the District would discuss Mr. Appleseth's proposal at the next meeting. Dave Weinstein expressed that he feels stretched in two directions because on the one hand, he has a duty to the constituents to protect their tax dollars, and on the other hand, he understands that paying something may be appropriate.

ENGINEERING REPORT:

Larry Comer presented his rate review research and summarized the expenses, revenues, and current budget and rate information. The operating expenses over the past year resulted in approximately \$100,000 shortfall (the year ending November 30, 2007). Mr. Comer noted that

in the long term, the District will need to have a depreciation fund to account for replacement, as opposed to utilizing the cap fee account. Mr. Comer pointed out that the replacement costs were almost the same as the annual O&M shortfall. Mr. Thompson advised the Board that depreciation is a component of the rate, and that when cap fees were abundant, replacement was okay with capitalization fees, but that as cap fees decrease, there will be a need to shift to depreciating and utilization of O&M fees.

George Anderl questioned the costs of monthly sewer services for other municipalities. Larry Comer stated that they are in the \$20-25 range, but these entities also do not really fund for depreciation (City of Hayden); Coeur d'Alene is in the \$25 range. George Anderl indicated that he would like to be as close as possible to the neighboring rates for sewer services. Gerry House stated that he is aware of upcoming increases in other sewer districts. Larry Comer indicated that depreciating reserves is important, and that the District will need to wean itself off of cap fees. Mr. Comer advised the Board that its facilities are aging, and that the District is, in essence, "mining" the cap fee fund due to decreased sales. He also noted that we have numerous lift stations, hills, pressure lines, and geographic challenges not really faced by neighboring entities.

Dave Weinstein stated that we should inform our District constituents of the issues we are facing, and see what their proposals are. Gerry House suggested we come up with our own proposal and then seek input. George Anderl expressed concern over the overhead of the District. Dave Weinstein indicated that a simple small increase may be appropriate to cut into the shortfall, but felt it was still a difficult decision. Gerry House, Larry Comer, and Dave Weinstein noted that any increase at this juncture may be premature in that HARSB is undertaking its own financial analysis, and raising and re-raising rates in a short period may not be appropriate if we can do it once with all of the relevant information. Tom Depew suggested that it might be best to do a newsletter of the issues and the Board's current thoughts, which would make what appears to be an inevitable rate increase easier for the constituents to understand. Ken Thompson agreed that simply raising the issues in the same manner as we did discussing them today would be helpful.

Gerry House summarized the position of the Board by outlining the issues again, and requested that Larry Comer put together information for a news release. Gerry House and George Anderl suggested that some information be included on how we could potentially avoid expensive phosphorus removal technology if we let the constituents know about using phosphorus-free dishwashing detergent.

BOARD DISCUSSIONS:

Gerry House discussed the capital improvement plan, and proposed putting it off until the next meeting when all of the information could be considered by the Board. Chairman House requested that Dustin Jacobson gather that information for the next meeting.

Tom Depew then questioned Mr. Schmidt as to whether or not it would be appropriate for the District to allow an employee to drive children (his own children) to a bus stop if he was on his way into work. Mr. Schmidt advised that such actions would potentially subject the District to liability, and that he could not recommend it. If the Board were to allow it, it would be important to ensure that the insurer deliver a written confirmation that it would cover any loss arising from an accident involving the passengers. Knowing the deductible and policy limits

would also be important. Gerry House and Dave Weinstein indicated that the District vehicles cannot be used for personal use, including transporting children to or from bus stops.

Dustin Jacobson requested that the Board approve the purchase of truck canopies with lockable toolboxes. Tom Depew recommended that the District purchase the canopies. Dave Weinstein suggested that if the District elects to purchase canopies, that it first obtain bids. George Anderl advised that he would approve of the purchase as long as it is not something cheap. Dave Weinstein moved to accept Tom Depew's recommendation that the District purchase the canopies, provided two estimates are obtained and they are of good quality. George Anderl seconded the motion, which thereafter unanimously carried.

Gerry House advised the Board that he wanted to discuss modernizing the filing system to make it computerized, but needed to put it off for consideration at a subsequent meeting.

Tom Depew discussed landscaping rocks located on the "Honeysuckle easement," and presented pictures to the Board to describe the situation. Mr. Depew indicated that landscaping rocks had been placed over a sewer easement, but that the owner of the servient property was willing to grant an additional easement for accessing the easement if the District would agree not to remove the rocks for preserving the access easement. This would allow the District to access its easement from the South of Mr. Morland's property. Mr. Schmidt advised the Board that for purposes of requesting services of the property owner, the cost to prepare such an easement would be \$500.

John Austin presented the interim financing ordinance for the Lancaster LID. Mr. Austin stated that the interest rate was set at 4.9%, plus 1% interest consistent with District policy. Mr. Austin recommended approving of the ordinance. Mr. Austin also indicated that the District needed to purchase cap fees, and pay some expenses with the LID, but that waiting would reduce interest costs. Mike Schmidt recommended approval based on Mike Ormsby's (bond counsel) and John Austin's recommendation. Dave Weinstein moved that the interim financing ordinance be approved as presented, which motion was seconded by George Anderl, and thereafter unanimously carried.

ADJOURNED:

Ken Sewell moved to adjourn the meeting, which Motion was seconded by Tom Depew, and thereafter unanimously carried. The meeting adjourned at approximately 7:40 p.m.

KEN SEWELL, Secretary