

# HAMILTON CREEK METROPOLITAN DISTRICT

## BOARD OF DIRECTORS MEETING

Wednesday, September 9, 2015

### **Attending Board Members:**

Tom Hand                                      Chuck Harris  
Bill Ferris                                     Jacques Delorimier

### **Others Attending:**

Tom Oberheide, Administrator  
Kelly Baldwin, bookkeeper  
Ruth Carroll, HOA president  
Matt Willitts, Water Solutions  
Aggie Hand  
Bob Pietrzyk

President Tom Hand called the meeting to order at 3 PM.

### **Minutes:**

The minutes from June 10, 2015 were reviewed and approved unanimously after minor typographical errors were corrected. ( Harris/ Delorimier 4-0)

### **Financial Report:**

Kelly Baldwin presented the financial reports, with all the modifications to the format the board had requested, and that she and Chuck Harris had been diligently been working on. A "Mini-Audit" committee of Bob Pietrzyk and Roger Paluska has been formed and will receive monthly Reconciliation Detail reports from First Bank Checking and Money Market accounts as well as the Colorado Trust account. They will have access to bank statements monthly and invoices on request.

We were alarmed to hear that there are 8 owners who are at least two quarters in arrears on their water bills and 5 others who have not paid for last quarter. This is a new phenomenon, perhaps because of all the changes in address. It is a concern of the board members that 13% of the residents are delinquent! Despite numerous notifications, four parties sent their reimbursement to the wrong address (read old PO Box) and someone even sent their payment directly to Bob Polich! It was decided not to change policy now. We will send yet another notice to all delinquent parties, but if the trend continues the board will add substantial late fees in the future. In the future we may also post delinquencies on the website for all neighbors to see who the deadbeats are.

The Profit and Loss Statement of the District through August 2015 was reviewed with areas of savings noted and recommendations for the 2016 budget were discussed. This was essentially the establishment of or first reading of the 2016 budget which will be voted on at the November 2015 meeting.

### **Legal Update:**

Today was disappointing on the legal front, as today was supposed to be the day that Bob Polich declared his intentions in court. Unfortunately, the case was delayed until 9:30 am on Monday, September 28, 2015, as the defendant stated he had not had enough time to review the evidence against him. I guess 15+ years of illegal financial dealings requires a lot of time to come up with excuses.

Board Members, Tom Hand and Chuck Harris, along with Norm Wright have met with some attorneys in Denver about the possibility of pursuing legal action against the auditors. This will be expensive, as the lawyers proposed the following costs to HC: hourly wage, expenses and 40% of any monies recovered. Nothing has been firmed up at this juncture. We are awaiting their evaluation of the validity of our data, i.e. the strength of our case, and for recommendations of a firm to perform a forensic audit.

Distressing to yours truly was that the lawyers in Denver had suggested another way to potentially recover some funds is to have the homeowner's file a suit against the Metro Board for negligence, and collect from their insurance. We have contacted Julie Clark of McGriff, Seibels and Williams who are our agents for the liability coverage of the board through the Colorado Special Districts Property and Liability Pool. An email from her is attached to the minutes.

The position of the board remains to try to financially recover as much as we possibly can from Mr. Polich. The DA Bruce Brown, and his Deputy DA, Rusty Prindle believe in our case and will pursue it to the fullest. Mr. Brown has instructed his investigator, Jake Scott, to have Mr. Polich's parole person find out about his financial status and various accounts as directed by the judge at his prior sentencing for a class IV felony in the Enclave case. Recent FATCA regulations about foreign accounts may benefit us as well. The District Attorney's Office stated they will pursue a class III felony charge, and in Summit County similar cases have carried up to 8 years prison time.

### **Water Operations:**

Matt Willetts gave the water report. They have completed some of the annual inspections without any difficulties detected. There are some ongoing problems with 4 meters on the ACLARA monitoring system that are not responding. One has been corrected and three remain non functional, because of difficulty arranging appointments with the homeowners.

The State of Colorado through CDHPE have decided to get tough and have notified us of a problem with DOVE (Disinfection Outreach and Verification Effort) compliance with our new system. Evidently our system was engineered to provide for a "0.5% Baffle Factor" and ours was recently tested and was only providing a 0.2% baffle factor. We have until March 2016 to correct this. One option is to just increase the chlorine content in our water to a perceptible level(second choice), and another is to actually correct the problem. We have received a proposal from FEI Engineers, who acquired the firm that designed our system, and will contract with them after Tom Oberheide has reviewed their proposal which was only received earlier today. This has been budgeted for with some funds coming from 2015, and the remainder of the cost will be in the 2016 budget. This will be the first of a never ending string of new regulations from the State regulators I fear.

Locates have been performed on the road projects for Red Buffalo and 0651 Lakeview Circle(Eva's property). The water lines were marked and are 8' down, but still might be a factor in mitigating the road deterioration problems.

The leach field difficulties at 1861 HCR are nearing completion and Matt has been helpful in the planning process as their relocation required modification because of proximity of the water line.

### **Administrator's Report:**

Tom Oberheide has almost completed legally securing the status of "Absolute" water rights for the new water treatment plant from Hamilton Creek. Well #2 will remain as "conditional" water rights, as it is not used for any beneficial use currently and is a back up only.

The board voted to have Mark Helton provide the snow removal contract for the winter of 2015-16 at last years rates. (Harris/Delorimier, 4-0)

The road projects for this Fall are two major ones, and will stay within the 2015 budget. SART excavators will establish a 18" deep ditch on the uphill side of Lakeview Circle from near Eva's driveway (0651) down to almost the common drive to Almonds/ Kleistuber's driveway in late September. A Peak will begin on the paving of Nordic Trail damaged area and other potholes in Sept., and finish up on the Lakeview area in October. No crack filling will be done this year, and will be resumed on an every other year basis in 2016.

Red Buffalo Trail was discussed, and the board awaits a proposal from the "non speaking" neighborhood. Evidently Prosser is excused from the road dealings, as he paid for the road rebuild up to and just past his drive. That leaves Tolton (two lots with one house), Rutherford( two lots, with vacated property lines) and the Coverts to share the expense. The board will reluctantly honor a written proposal from Bob Polich to partner with the neighbors up to 25% (four parties, divided equally). The board will be making a decision on how to handle similar common driveway issues at a later date. The board is firm in it's belief that this is a "one time" decision, and not a precedent setting action for the entirety of the HC neighborhood.

The ACLARA water monitoring equipment agreement has been updated to include Hamilton Creek in it's verbage. Previously only East Dillon Water District and ACLARA were in the agreement with a handshake deal. HC has been added as an official utility in a written agreement. The next step is to get an IGA (Inter-government Agreement) written which should be available to sign at the November 2015 meeting.

### **Next Meetings:**

The next meeting will be Wednesday, November 11, 2015 at Matt's WSI Office in Dillon Valley at 3 pm. The 2016 Metro Board Meetings will be on: 3/9, 6/8, 9/14 and 11/19.

The meeting was adjourned by executive order of our president Tom Hand at 5:15 PM.

Respectfully Submitted,

Bill Ferris, Secretary

**Executive session 9/9/2015 5:20-5:40 pm:**

Two items were discussed and decided. The first decision was on replacing longstanding board member and fisherman extraordinaire Jacques Delorimier, because he and his lovely wife Lyn have sold their home and are moving from the area. A copy of Jacques letter of resignation is attached. Six potential candidates were reviewed and debated. Two more positions will be available in 2016 to replace Tom Hand and Ann Beauprez, who's terms are expiring. After a thorough discussion, a motion was passed to select Bob Hinman as Jacques' interim replacement. (Ferris/Harris 3-0).

The second decision was regarding the compensation for our new administrator, Tom Oberheide. When he was hired, we anticipated that he would need to spend about 200 hours/year, and we would start him at \$17,000 salary, at a rate of \$85/ hour. The learning curve has been steep, requiring more hours than anticipated. Tom has proven to be a quick learner, and has handled everything we have thrown at him and more from some residents. He has handled all of this in a timely, expeditious and courteous manor. After a discussion of options, the board decided to increase his compensation from \$17,000 to \$25,500/ year. (Ferris/Harris 3-0) The meeting was adjourned by president, Tom Hand at 5:40 pm.

**Email Regarding the Metro Board's Liability Coverage:**

On Wed, Sep 9, 2015 at 11:26 AM, Julie Clark <[JClark@mcgriff.com](mailto:JClark@mcgriff.com)> wrote:  
Hi Chuck:

Further to our conversation last week I wanted to follow-up in an email. You had questions about the district's liability insurance and how the coverage would work if the district were sued for negligence. I'm paraphrasing below from the Public Entity Liability coverage document of which the full copy is available on our website at [www.csdpool.com](http://www.csdpool.com) under the Manuals tab.

- The Pool will defend and pay on behalf of the Member district those sums which the Member shall be legally obligated to pay as damages because of bodily injury, personal injury, property damage or a wrongful act subject to the terms and conditions and exclusions of the coverage form.
- The definition of Member includes directors, officers, employees and volunteers all acting within the scope of their employment and duties.

- Wrongful act means any actual or alleged error or misstatement, omission, act of negligence or breach of duty including misfeasance, malfeasance or nonfeasance by the member individually or collectively.

We had also touched on the Colorado Governmental Immunity Act which extends protection for public employees, including elected board members. The Act states that a public entity, which includes special districts, shall be immune from liability in all claims for injury which lie in tort (negligence) or could lie in tort regardless of whether that may be the type of action or form of relief chosen by the claimant except as provided otherwise. Also provides immunity for public entities and employees while acting within the scope of employment, as long as such acts are not willful and wanton. The CGIA establishes governmental immunity from suits against public entities and their employees in tort cases but then waives immunity under certain circumstances. There are about half a dozen waivers of immunity to the CGIA, none of which are related to the conversation of last week.

I trust this is helpful. As we discussed, it's difficult to determine "what if" situations as each has its own unique characteristics. If you have questions or want to discuss further, please feel free to contact us.

Julie C. Clark, ARM  
Colorado Special Districts  
Property & Liability Pool  
c/o: McGriff, Seibels, & Williams  
Phone: [800.318.8870](tel:800.318.8870) ext: 2,3  
Direct: [503-943-6636](tel:503-943-6636)  
Cell: [503-333-4701](tel:503-333-4701)  
Fax: [503.943.6622](tel:503.943.6622)  
Email: [jclark@mcgriff.com](mailto:jclark@mcgriff.com)

**Integrity** ⚙️ **Passion** ⚙️ **Ownership** ⚙️ **Excellence** ⚙️ **People-Centric**

**Jacques DeLorimier Resignation Letter:**

10 September, 2015

891 Lakeview Circle  
Silverthorne, CO 80498

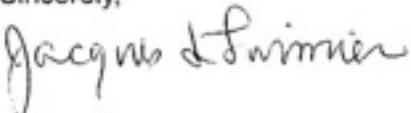
TO:

Tom Hand, President of Hamilton Creek Metro District

This letter is to inform you and the board of directors that I am resigning from the Metro board as of this meeting today.

I would love to remain on the Board for the remainder of my term but I am moving from Colorado soon.

Sincerely,

A handwritten signature in cursive script that reads "Jacques A deLorimier". The signature is written in black ink and is positioned above the printed name.

Jacques A deLorimier