

**Approved Minutes for the HICA Regular Board of Trustees Meeting on February 21, 2018 held at the PUD Building in Everett WA respectfully submitted by HICA Secretary Darla Younce**

The meeting was called to order by Treasurer Mike Immel, as President Pro Tem at 6:00 p.m. also present were Vice President Karen Conner, Secretary Darla Younce, Trustee Kevin Smith. President Scott Holte, Trustee Scott Wilson and Trustee Udo Gerz attended telephonically. Island Manager Sandra Bettencourt was not in attendance.

**Approval of Minutes**

Mike Immel asked for a motion to approve the minutes for the January 20, 2018 regular Board Meeting, Karen Conner asked to ensure the Treasures report is attached which was so noted. Kevin Smith moved to accept the minutes, Darla Younce seconded. The motion was unanimously approved.

**Island Manager’s Report**

There was no Island Manager Report.

**Treasurer’s Report**

We reviewed the Balance Sheet but Mike Immel did not have an updated P&L to present. Mike noted that some expenses and Capitol reserves had not yet been updated into the system. And, that Angelina and Staff were occupied with **1.** Closing out the books for 2017 and **2.** Providing documents for the audit.

Mike has provided an updated P&L & Balance Sheet which is included in these minutes and will be posted on the website. Please note **1.** that the profitability of January – June is considerably higher as the special assessments fund anticipated shortfalls in operations funds, capital reserves, and additional principal payments on the marina loan. **2.** January is often time affected and exaggerated more as there is a percentage of the population that pays their entire years assessments in total. **3.** There is a line item for previous years assessments received. January often includes a higher percentage of 4<sup>th</sup> quarter or past due assessments.

**Committee Reports:**

**Water Report 2-16-18 (Written)**

Mike Immel read the report that was submitted by Scott Wilson and Chris Inman

Water produced in January:

	January	YTD
Wells	205,984	205,984
RO	56,400	56,400
Totals	262,384	262,384

During January the wells and RO performed fine.

The production total from this month is right in line with what we've produced from last January. The wells are producing most of the water needed with the RO coming back online at the end of the month and performed well.

On the RO side of things Case came over in January and what was thought to be a broken diffuser in sand filter 3, actually was a failed solenoid on the backwash side of sand filter. We had one on hand and it was replaced. They also started some of the spring check-up. The RO was back on line and working. They have researched the sand filters which have not had their media changed since it was built in 2001. They noted that we are still seeing sand and mussels in the bottom of our cartridge filter housing and in the endcaps of our membranes. This should not be migrating that far.

They are researching the operation specs for these sand filters. They are aware that both the backwash GPM and Rinse cycle are outside of the design limits. We backwash at ~150 GPM and rinse at ~140 GPM. We only run at ~75GPM when producing water. This high pressure is more than likely the cause of the sand migrating to places it is not supposed to be. Case, (our Vendor) is working on ways to reduce the backwash/rinse flows along with designing a plan to replace our media with a simpler mix. We should have their recommendations this month.

### **Marketing Report**

Darla Younce reported that there are 10 lots for sale that the community acquired through foreclosures. Asking prices for these lots are based on the Snohomish County 2017 Assessments. Lot F84 was sold and an offer is pending on lot J3. All HICA members in good standing and their sponsored friends and families are eligible to make offers on these lots. Information regarding which lots are for sale went out from the office through community email on 2/1/2018, 2/6/2018 and 2/13/2018. This list can also be found in the First Quarter ViewPoint for 2018 on our website at <http://hatisland.org/viewpoint.htm>

### **Approval of the Board Resolution and Policy for Fine Enforcement**

Karen Conner asked for a motion to approve the Board Resolution RE: Fines Enforcement Policy as reviewed and recommended by legal counsel. Darla so moved and Kevin seconded. The motion was approved unanimously.

The Board Resolution and the Enforcement Policy will be mailed to all community members and will also be posted on our website.

### **Legal Report (Written)**

Scott Holte submitted a written report which was read by Karen Conner.

The Association has been dealing with two significant legal issues for over four years: 1. The lawsuit brought by Matt Surowiecki and others; and 2. The non-payment of assessments, most significantly by Mr. Surowiecki.

It is understandable that many in the Community lump the two issues together. They have occurred at the same time and both have required a tremendous amount of time and energy for the Board and the Community. **But**, as we have discussed many times, resolution of the lawsuit, whether by trial or mediated settlement has **nothing** to do with Matt's debts to the Association for unpaid assessments.

The delinquent assessments are not part of the lawsuit. The Limited Liability Companies which hold record title to Matt's lots are not parties to the lawsuit. While the foreclosure action against many of these lots is currently stayed, it is a separate action and the Association intends to pursue it as such. Although the lawsuit is important to the Association it is not as important as getting what Matt owes, or, alternatively, foreclosing on his lots. The difference between the two to the Association can be summed up as follows:

- (a) HICA's insurer is paying for defense of the lawsuit and will continue to pay. Our \$35,000.00 deductible was spent years ago.
- (b) In addition to paying for a defense, HICA's insurer has an obligation to make reasonable efforts to fund a settlement of this dispute. HICA's insurer also has coverage obligation in the **very** unlikely event of a judgment against HICA.
- (c) While we are cooperating with our insurer in the defense of the lawsuit, the carrier has no say in how we proceed in our pursuit to collect delinquent assessments.

In the last several months and recently there have been many major developments in the lawsuit:

- (a) Our attorney has won several motions resulting in the dismissal of many of the Plaintiffs' claims.
- (b) The individual past and current Board Trustees have been dismissed from the lawsuit.
- (c) The Seattle trial law firm representing the Plaintiffs has withdrawn and substituted counsel has appeared, but only for Mr. Surowiecki.
- (d) The Plaintiffs' original counsel has indicated he intends to withdraw from representing the remaining Plaintiffs, but has not done so to date.
- (e) The substituted counsel has engaged in expert witness "discovery wars" refusing to provide the opinions and/or reports of the Plaintiffs' experts; and threatening to ask the court to strike our expert witness.
- (f) The attorney for the other Defendant, our former Island Manager, left the firm representing him, and substituted counsel from that firm has undertaken his representation.
- (g) The expert witness for our co-Defendant suddenly has withdrawn and a new expert will not be available for discovery purposes for several weeks.

The Board discussed all of these issues with our attorney and reluctantly concluded that even if we fought the expert witness discovery war and opposed any continuance, it was likely that the Judge would grant it. However, we agreed to the continuance on several conditions:

- (a) The Association will receive the @ \$60,000.00 deposited in the registry of the Court by Mr. Surowiecki.
- (b) The Parties will provide additional expert disclosures rather than moving to prevent expert testimony at this time.

Accordingly, the trial date has been continued, unfortunately until early December of this year. **But**, there are several important reasons at this time to distinguish between the lawsuit and collecting delinquent assessments:

- (a) As indicated previously we will receive \$60,000.00 in delinquent assessments.
- (b) Our attorney has filed a motion to dismiss the Plaintiffs' "equitable assessment" claim, which is the primary claim in their lawsuit.
- (c) The attorney for our co-Defendant has filed a motion to dismiss the lawsuit against him.

- (d) Both motions are scheduled to be heard by our pre-assigned Judge in early March.
- (e) We feel that both motions have a good chance of being granted and significantly limit the remaining issues in this lawsuit.

In short, we are not happy about the trial continuance, but with all of the favorable developments the impact on the Association is not all that great. Conversely, we feel that our emphasis should be on collecting the delinquent money owed by Matt as expeditiously as possible, which we have already made a first step in achieving and will continue to pursue as vigorously as we can.

Sincerely,

Scott Holte, President

### **Proposal to Change Date of March Meeting from March 17, to March 24.**

The March meeting will be held on March 17<sup>th</sup> as most Board Members are not available on March 24<sup>th</sup>.

### **Community Input**

**A community member** asked if there was any new information on the Division H Lawsuit. Scott Holte replied that there was no new information to report.

**Mark Nysether D-21** a past President for the community said he appreciated the fact that the meeting was held on the mainland and asked if we could hold quarterly meetings on the mainland. The Board is open to having quarterly meetings on the mainland during winter months and noted that the PUD room has much better acoustics than the Public Library. Kevin Smith stated that while it might be good to have quarterly meeting on the mainland in the winter months, summer or high season meetings should be held on the island.

**A community member** asked if there was any consideration for small or tiny houses. Udo Gerz stated that our CC&Rs require 800 square feet for a one story structure or a minimum of 500 square feet on the first floor if it's more than one story, while Snohomish County does not. But, for any size dwelling that will be occupied Snohomish County requires a building permit, including inspections by the county including permits by the county for electricity, septic and water hook up. And, until the HICA CC&Rs are amended occupied dwellings under 800 square feet are not permitted.

**Brent Hackney B107** asked if there can be more of a concession, or is there a document that explains why water is not allowed to be installed prior to the foundation being poured. Snohomish County Building permits require proof of water before they are approved. HICA provides a letter that water is available. Brent mentioned that he built his garage before the house and he had to barrow water from his neighbor. Karen Conner said the rules were established years ago before there was a RO system. They are not in our bylaws but we will look into where that policy resides and revisit.

### **Adjournment**

With no further business Vice President Pro-Tem, Mike Immel called for a motion to adjourn to Executive Session to discuss legal and personnel issues and not reconvene tonight. Karen Conner so motioned Kevin Smith seconded. The motion passed unanimously. The meeting was adjourned at 6:48 p.m.

**Hat Island Community Association**  
**Profit and Loss**  
January 2018

	<b>Total</b>
<b>Income</b>	
Annual Assessments & Fees Income	63,870.88
<b>COMMUNITY INCOME</b>	54,823.27
Previous Year Collection Income	2,974.96
<b>SPECIAL ASSESSMENT INCOME</b>	77,158.72
Unapplied Cash Payment Income	17,288.87
<b>WATER INCOME</b>	31,255.42
<b>Total Income</b>	<b>\$ 247,372.12</b>
<b>Cost of Goods Sold</b>	
5015-AB COS - Gas	8,028.95
5020-AB COS - Diesel	1,431.89
5045-AB COS - POE - Ferry Berth Rental	1,959.03
<b>Total Cost of Goods Sold</b>	<b>\$ 11,419.87</b>
<b>Gross Profit</b>	<b>\$ 235,952.25</b>
<b>Expenses</b>	
Administration	1,425.00
Insurance	6,906.39
Professional Services	4,860.12
<b>REPAIRS &amp; MAINTENANCE</b>	6,969.86
<b>TAX</b>	863.00
<b>UTILITIES</b>	2,000.30
<b>Total Expenses</b>	<b>\$ 23,024.67</b>
<b>Net Operating Income</b>	<b>\$ 212,927.58</b>
<b>Other Income</b>	
7005-AB Interest Income - Delinquent Accouts	49.69
Marina Assessments	1,085.65
<b>SPECIAL PROJECTS - DONATED INCOME</b>	1,200.00
<b>Total Other Income</b>	<b>\$ 2,335.34</b>
<b>Other Expenses</b>	
Interest Expense - Marina Loan	4,423.04
<b>Total Other Expenses</b>	<b>\$ 4,423.04</b>
<b>Net Other Income</b>	<b>-\$ 2,087.70</b>
<b>Net Income</b>	<b>\$ 210,839.88</b>

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**Hat Island Community Association**  
**Balance Sheet**  
As of January 31, 2018

	<b>Total</b>
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Bank Accounts</b>	
9999 Marina Invoice Clearing	253.89
<b>Operating Cash Accounts</b>	
1100 Cash Petty	231.00
1111 Bank FB Operating Ckg - 41606	596,293.28
<b>Total 1111 Bank FB Operating Ckg - 41606</b>	<b>\$ 596,293.28</b>
1112 Bank FB Operating Invstmnt - 25755	0.00
1121 CCB Operating Ckg Acct #1744	79,566.09
1122 CCB Receipts Acct# 6064	6,452.80
1125 Merchant Services / Secure Pay	40,917.30
<b>Total Operating Cash Accounts</b>	<b>\$ 723,460.47</b>
<b>Other Reserves</b>	
1129 CCB DNR Bond Acct# 3316	1,511.97
<b>Total Other Reserves</b>	<b>\$ 1,511.97</b>
PCB - Capt. Res # 5771	228,383.44
PCB - Cash Reserves #5763	176,705.72
1110 Cash Reserve Employee Bonus	3,603.86
<b>Total PCB - Cash Reserves #5763</b>	<b>\$ 180,309.58</b>
PCB - Marina Acct #9741	4,842.10
PCB - ROP Acct # 5797	42,297.11
<b>Total Bank Accounts</b>	<b>\$ 1,181,058.56</b>
<b>Accounts Receivable</b>	

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