

## **HMC Management Board Meeting Minutes (October 10, 2009)**

**Call to Order:** Fred Fath called the meeting to order at 10:00 AM.

**Roll Call:** Fred Fath, President/Treasurer, Kathryn Deuster, Vice President, Janet Podell, Secretary; Judy Greinke, Asst. Treasurer, Absent - Patrick Pitt, Member at Large

**Previous Board Meeting Minutes:** **Fred Fath made a motion to accept the September '09 meeting minutes. Motion carried.** The following statement is added by the Secretary to officially record an exception taken independently from these proceedings. Mr. Pitt was absent from the October '09 Board meeting but it should be noted that on Friday evening (Oct. 9<sup>th</sup>) he took exception (via email) to the September '09 minutes as written. He requested the following two changes to the minutes: 1) To change the motion made in the Rules section on how the Board would handle the petition to remove the Rules chair. It was pointed out to Mr. Pitt that motions made and voted on by the Board cannot be changed after the fact when the action has already been completed. Furthermore, the action as written in the original minutes was personally dictated by Mr. Pitt and repeated in an open forum three separate times at the time it was being recorded to ensure the accuracy of its intent. Consequently, Mr. Pitt's request to change the motion was denied. And 2.) Request to modify the Roads paragraph. This change did not affect any actions already taken by the Board and was accepted as requested by Mr. Pitt with an additional explanatory statement directly below his requested modification.

**Correspondence:**

- One piece of correspondence was received during the month. This was Pierce County's written approval of our Water System Plan.

**Finance:**

- Fred Fath reported that we completed our fiscal year on Sept. 30th. We funded reserves and ended up with \$48K in the cash account. The year-to-date budget came in very close to plan on the revenue side. On the expense side, some accounts did go over plan. The final budget as recorded is subject to audit.
- Two additional bills just received were not identified in the Board's packet. **These were noted and Kathy Deuster made a motion to pay the bills. Motion carried.**
- Judy Greinke reported out on an HMC policy that addresses refunding deposits to members when they have met their obligation relative to use of the Community Center. Kathy made the motion to give the office manager ongoing authorization to refund community center deposits prior to the next board meeting, upon the member's request and have the check mailed directly to the member from the bank. This plan keeps us in compliance with our approved accounting practices.

For additional details on the following issues see the written island manager's report.

**Administration:**

- Claudia started her Island Manager's report by thanking Carolyn Snyder for her excellent support to the association as the HMC office manager. She also noted that without island volunteers, much of the work accomplished during the previous month would not have been possible, and thanked the volunteers for their help.
- There has been a request to change the office hours by moving them up by one hour to 8:30am to 4:30pm instead of 9:30am to 5:30pm. Additionally it was requested that the office close at 2:00 PM on the Friday before a board meeting. This will allow the office manager to prepare the Board packets and copy materials for the meeting. The Board unanimously approved both requests.
- Claudia also reported out on the mainland property issues, the upcoming flu shot clinic at the Community Center, and the surplussing of some HMC equipment; details of which can be found in her written report.

**Legal:**

- It was reported that there are currently five delinquencies; down from eight from last month.

### Land Use:

- The Land Use Committee's new charter has been written. The committee asked the Board to review the charter and advise approval as written. The committee also included a list of committee members. **Kathy made a motion that we accept the members who have been identified for the LUC. Motion carried.**

### Transportation:

- See the Island Manager's report for miscellaneous Transportation issues not directly mentioned here.
- This past month the Charlie Wells underwent an in-water inspection by the Coast Guard. We are happy to report that the boat and the crew passed the inspection with flying colors.
- There will be training next week for the crew on how to accept and record ferry fees. This training will occur on Thursday and the office will be closed during the training.
- The Dolphin Task Force has met and prepared a draft RFP for an underwater marine survey. A heartfelt thank you went out to Judy Greinke, Kris Mullen, Ben Burke (a marine specialist), John Farris and Jean Mellor for their efforts on this committee. A more detailed report will be presented to the Board at next month's board meeting following the committee's meeting with the island manager.
- APP spill containment project – Judy Greinke reported out on the status of this issue. We are still trying to get our own containment plan approved and APP is now receptive to this idea. Merry Kogut has suggested that we attempt to get a government exemption from the requirement. Merry is off the island at this time but when she returns we will query her more about her idea. It was reported that sometimes exemptions take more than a year to complete. We need to proceed with a parallel plan to mitigate the expenses that are being realized with every fueling. **Judy Greinke made a motion that we proceed with the project to develop our own containment plan and authorize any expenses that come forward. Motion carried.**

### Rules & Regulations:

- Fred read the Board's decision about the petition to remove Eric Bergson from his position as Rules Committee Chairman. It has been determined that the evidence presented in the petition was insufficient and unproven. (The Board's written decision is attached below.) However, during the course of the Board's investigation it was made apparent that some of Eric Bergson's actions may be perceived as aggressive. Fred Fath plans to discuss these issues with him in a written communication and place a copy of the letter in his membership file. **Fred Fath made a motion that we reinstate Eric Bergson as the Rules Committee Chairman. And that he not be prohibited from participation in other island committee activities. Motion carried.**

### Emergency Preparedness:

- In light of last month's presentation by Fire Chief Tom Lique, a member in the audience asked if we could buy our own fire truck. Mike Davis reported that this may not be a viable option because of personal liability issues due to the intensive requirements for fire service training to satisfy insurance requirements. He stated that it is still his goal to have trained volunteer firefighters on the island.
- Pierce County is conducting an earthquake disaster drill on October 21<sup>st</sup>. This will not affect Herron Island directly. For more details see the Island Manager's report.

### Water:

- See the Island Manager's report for miscellaneous water system issues not directly mentioned here.
- Coliform Testing Policy – The existing plan is in full compliance with government regulations and has been approved by the Board and Pierce County. The recommendation is that we follow water testing procedures as identified in the Water System Plan which also contains emergency procedures and notification requirements. Additional testing can always be performed at the discretion of the Certified Water Distribution Manager.
- We are still waiting on the final word from the state on our Water System Plan. Judy Greinke reported that she spoke with the Dept. of Health representatives and received their verbal approval of our WSP. The official letter of approval is expected by

the end of this month. This is excellent news. Now both Pierce County and the Dept. of Health are in agreement with our plan. This has been a hard won activity and our sincere thanks go out to all of the former Water Committee members who worked to accomplish this task.

- Steve Chapin stood before the members and introduced himself as the chairman of the new Water Project Committee. He reported out on the charter and the tasks before them. He stated that we will look at all options. He is hoping that his team will have something to report to the members by Spring 2010. He promised transparency. A member asked Steve why we need a separate website for water information. Fred responded that in the past there had been several different websites. This had been problematic so he suggested that we provide a link to their website on HMC's official website. The Water Project Committee is drafting their charter that will be sent to the Board for review.
- Steve reported that their next committee meeting is scheduled for next Tuesday at Rainier View Water Company in Tacoma.
- On the issue of committee charters, Judy Greinke reported that recent draft Charter documents she has seen have included a requirement for the Board to approve all members who will serve on a committee. She indicated that this might not be an appropriate requirement since it may give the Board too much power in populating our committees. She further pointed out that these are membership committees and any member may choose to participate.

**Technology:** No report from the Technology Committee

**Parks:**

- A recent storm tore out some rings and brackets from the small boat docks. The parts are being ordered to make repairs.
- Two ring buoys have been purchased for the swim float and will be installed next year.
- On October 24<sup>th</sup> there is a work party to remove the boat docks on 10/24. Tracy Anspach is soliciting volunteers. This will be posted on the white boards around the island.

**Roads:**

- See the Island Manager's report for miscellaneous Road issues not directly mentioned here.
- Fred reported out on the issue of the road encroachment at the south end. He provided a brief synopsis of the history of the project. He reported that HMC has two options; to seek legal redress through an adverse possession lawsuit or revise the road to cure the encroachment. Some members expressed concern about any changes to the drainage conditions as a result of the road revision. The original engineering firm recommended by Pat Pitt, (Geo Resources) subsequently indicated that they were more soil engineers/experts than drainage experts and recommended that we hire a firm more familiar with surface water drainage. HMC subsequently hired Baseline Engineering to perform this assessment. Baseline Engineering and Aspen Survey came out to do a topographic study of the subject property on October 5, 2009. Until Baseline Engineering completes their report we will not know if we are required to obtain a permit or what our options and costs might be. Fred then opened up the questions to the audience. Quinn Wilks spoke up about the conditions that exist on his property today. He then asked if what we are doing is proper and if Baseline Engineering looked at the downstream condition to determine if it will change with the road revision. Fred stated that when the Baseline report is provided he will share it with the affected members. The Island Manager reported that people have been independently injecting themselves into the process. They are reporting incorrect information and causing a lot of confusion with contractors and Pierce County land use agencies. She asked that individuals refrain from interfering with HMC contractors and let HMC do its job and report back the results to members.
- Fred Fath made a general address to the members that this issue brings up an open question about whether it is HMC's responsibility to deal with storm water drainage or the owner's responsibility. When the island roads were first plotted the regulations were very different relative to surface water drainage. He recommended that we hire a specialist attorney to assess the liabilities and responsibilities under present day regulations. Fred went on to state that legal opinions indicate that HMC could simply take the properties in question (Podell, O'Neill and Stroube), but in context of all of the encroachment activities

and situations, as well as the pending water system replacement, it seems important for HMC to do the right thing.

**Old Business:**

- The question of HMC's Wi-Fi access was addressed and status was requested. This is the job of the Technology Committee who is developing an access plan for the membership. Claudia explained that this must be prepared carefully since HMC would be held liable if a member used our Wi-Fi access for illegal purposes. A member in the audience indicated that there are processes in place to ensure those protections are built in to any access agreement. This would include a disclaimer that members using the service would have to accept. The member offered to provide sample disclaimer forms to the island manager.

**New Business:**

- It was reported that two Board members will be absent for the next regularly scheduled board meeting. This was considered an unacceptable situation so it was suggested that the next board meeting be moved up by one week to November 7<sup>th</sup>. The Board agreed and a notice to this effect will be posted on the website.
- Kathy inquired if there was any interest in having an arborist come to the island to look at the health of member's trees. She suggested that it could be a shared cost by those members wishing to partake of the service.
- It was reported by Janet Podell that there is a new process for obtaining the security code to the Community Center. Presently there are many members who have the code but the office is not aware of the total list of who those members are. Therefore, for security purposes the code will be changed within the next few weeks and any member wishing to have the code must sign an agreement that states how they intend to use the community center and protect the security code. The member must also agree to leave the Community Center in the same condition it was found. Further details will follow.

**Action Item Review:**

- The Board reviewed the open action items, updated status as appropriate, and added the actions that were identified from today's meeting.

**Beachcomber:**

- The next Beachcomber will be the November/December issue. Inputs are required electronically no later than 5:00 PM on Wed. November 18, 2009. The Beachcomber Editor is [beachcomber@herronisland.org](mailto:beachcomber@herronisland.org).

**Adjournment: Fred Fath made a motion to adjourn the meeting. Motion carried.**

Respectfully submitted,

Janet Podell  
Secretary

## **Board Response to Petition Request for Removal of Rules Committee Chairman**

The Board was asked to review the petition and make a determination on the merit of the issues addressed. The Board reviewed the petition in detail and made additional inquiries in an effort to come to a fair and equitable solution regarding the removal of the Rules Committee Chairman.

The petition called for the removal of the Rules Chairman primarily because of a taped conversation that was perceived as an illegal activity. The Board discovered that, not only did Eric Bergson not make the recording in question (his wife did), but the law provides for recording of conversations when one party feels the threat of physical harm. There had been a physical threat made earlier in the day and Eric's family was completely within their right to record the event. RCW 9.73.030 clearly states this in its text. Another key complaint in the Petition claimed that the recording was published to "persons known and unknown". The complaint was appropriately filed and sent only to the Board and the Rules committee. It was apparently released by someone from one of those camps. It would seem on its face, that Eric Bergson may actually have a case of his own against that person. Also, Eric filed the complaint as an HMC member and not in his capacity as Rules Chairman. (Something he is completely within his rights to do.) The Board cannot and will not punish a member for exercising his rights.

Discussion has since occurred with some of the parties who signed the petition. It was reported by these members that signatures were solicited in a very aggressive manner. Indications are that some members actually signed the petition without reading it first.

After careful consideration it has been determined that there is simply not sufficient evidence for the Board to take the step of involuntarily removing the Rules Chairman from his position or prevent him from participating in other HMC committee activities. By doing so, we lend credence to this type of activity, and render our island rules unenforceable. Furthermore, during the course of our inquiries we learned that there is a move afoot to eliminate the island rules entirely and have the island operate in a "self-governed" capacity. We believe that most people would agree that a self-governed island would not serve the greater good