

M A N I T O B A                    )  
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THE PUBLIC UTILITIES BOARD ACT    )    Order No. 151/09  
  )    November 2, 2009

BEFORE:   Graham Lane, C.A., Chairman  
              Susan Proven, P.H.Ec., Member

GRAND PINES DEVELOPMENT CORPORATION  
          WATER UTILITY  
          INITIAL WATER RATES

## 1.0 Executive Summary

By this Order, the Public Utilities Board (Board) varies an application by Grand Pines Development Corporation (GPDC) and assesses an annual per lot charge to property owners in the Grand Pines development for costs associated with the operation of the water system.

Annual rates for 2008 and 2009 are:

Year	Undeveloped Property	Developed Property	Golf Course Clubhouse	Golf Course Maintenance	Golf Course Pond Filling
2008	\$60.00	\$448.00	\$896.00	\$896.00	\$1,400
2009	\$63.00	\$486.00	\$972.00	\$972.00	\$1,400

GPDC also applied for rate increases for 2010 and 2011, but the Board will require GPDC to file further financial statements and other supporting information before considering whether to approve or vary those requests.

Annual rates are to be prorated, and a proportionate charge allocated for connections that occurred part way through 2008 and 2009 as well as with respect to any changes in ownership that occurred or will occur.

The Board recognizes that less revenue will be received by GPDC as a result of prorating charges, and, if the utility incurs deficits in 2008 and/or 2009 as a result, an application may be made to recover such losses in future rates.

GPDC is to extend the due date for submitting payment to its invoices to November 30, 2009 for 2008 water bills and December 31, 2009 for 2009 water bills.

Pursuant to the Board's requirements, notice of the proposed rates was provided to customers by mail. The Board received numerous letters, emails and telephone calls from customers suggesting that the proposed rate increases were excessive. As a result of the inquiries, the Board held a hearing on September 29, 2009 in Grand Marais: 17 property owners attended and expressed concerns.

## **2.0 The Utility**

GPDC is a private corporation, incorporated in 1992, with offices in Winnipeg. GPDC constructed an 18-hole golf course in the RM of Alexander and developed an adjacent 149-lot residential subdivision that was completed in 1997. The Corporation began selling lots in the subdivision in 1994 and the final sale closed in April 2008.

The water system comprises a 120-foot artesian well and an outbuilding housing 2 water pumps - only one pump is in operation at any given time. During the summer months, a larger pump is used to ensure adequate water supply with heightened use by the residents and the operation of the golf course; this pump runs continuously. GPDC indicated continuous operation of the pump is less costly than if the pump switched on and off as required (in the past, the pump burnt out after two years use, requiring replacement at a cost of approximately \$5,000).

The only treatment provided to the water is chlorination and the resultant treated water is distributed throughout the subdivision by a 4" line and by a 1/2" line to the homes/cottages. Chlorine levels are checked daily, with water samples taken to ALS Laboratories in Winnipeg for testing.

When the application was filed in June 2009, Grand Pines was

seeking certification of the system by Water Stewardship, the provincial regulator of safe water. GDPC advised that the public water system has been inspected and documentation with respect to the classification of the plant is pending and expected.

GPDC advised that the golf course has a separate pump house located near the clubhouse to provide untreated water for irrigation. Occasionally in the summer months, untreated water is drawn from the residential pump facility using a by-pass valve and a 2" line, to assist in filling ponds for irrigation purposes.

At the time of purchase, each residential lot owner signed a Development Standards Agreement, registered as a caveat against the title of the property. A copy of this agreement was attached to the application. Each lot owner paid a one-time capital "Water System Fee" of \$1,500.00 - representing lot owners' contributions towards the capital cost of the system. The "hook-up" costs were and are the responsibility of the lot owners.

All water usage is unmetered and Grand Pines is presently not prepared to install meters.

As at the end of 2008, 31 dwellings have been constructed and are customers of the utility. In 2009, while 11 additional hook-ups were expected, GPDC was not able to confirm the number of connections as of the date of the hearing.

The utility was operated by the golf course superintendent (an unlicensed plant operator) until August 1, 2009, at which time GPDC contracted a licensed operator, Mr. Clifford Trainor.

### **3.0 Application**

Water service has been available to all lot owners (now 148 lots

as since the original development, one lot was combined with an adjacent lot), the golf course club house and the golf course maintenance building.

From 1997 to 2008, water was provided at no charge by GPDC. In 2008, GPDC's Board of Directors approved setting an annual Water Service Fee, under the provisions of the Development Standards Agreement.

In an application filed with the Board on June 18, 2009, GPDC proposed the following annual rates:

	<u>2008</u>	<u>2009</u>
Developed Lots	\$ 480	\$ 494
Undeveloped Lots	\$ 60	\$ 63
Golf Course Clubhouse	\$ 480	\$ 494
Golf Course Maintenance	\$ 480	\$ 494
Golf Course Pond Filling	\$1,000	\$1,000

GPDC proposed that rates for 2010 and 2011 would be increased over the prior year's rate by the rate of inflation. GPDC held that the charging of a fee to undeveloped properties is necessary, as the charge would represent an investment to ensure the utility remains viable until hook-up occurs.

GPDC proposed to charge the flat annual fee to each the golf course clubhouse and the maintenance building, and collect an additional \$1,000.00 for estimated water usage for pond filling.

GPDC estimated revenues for 2008 to be \$23,860, and, for 2009, \$29,414.

Operating expenses for 2008 and estimated costs for 2009 are:

	<u>2008</u>	<u>2009</u>
Manitoba Hydro	\$ 2,681	\$ 2,950
Repairs & Maintenance	633	2,000
Insurance	450	1,450

Operator	12,000	16,025
Laboratory Costs	540	825
Purolator	832	-
Provision for Bad Debts	660	820
Administration	<u>3,000</u>	<u>3,000</u>
<b>Total</b>	<b>\$20,760</b>	<b>\$27,060</b>
<b>Reserve Fund</b>	<b>\$ 2,400</b>	<b>\$ 2,400</b>

There is neither provision for depreciation or a profit margin in rates. The original capital cost of the system is \$240,400 - of which lot owners paid \$213,000 through the Water System Fee.

GPDC advised it carries \$5 million of liability insurance and the new operator contractor carries third party liability coverage of \$2 million.

GPDC was not able to provide separate financial statements for the utility, and advised that actual 2008 costs were prepared from an analysis of information contained in the general ledger accounts of Grand Pines (which include the golf course and the utility expenses).

In a letter to lot owners dated July 7, 2008, Grand Pines advised residents of its proposal to introduce an annual usage fee and also advised that it intended to transfer the utility assets and its operations to a newly incorporated entity titled "Local Water Utility" (the utility to be administered by a Board of Directors, which would include lot owners). GPDC also indicated the entity would be a non-profit corporation. Lot owners were invited to respond to the concept by August 15, 2008.

On August 6, 2009, GPDC mailed notice of its proposed rates to customers, inviting customers to file comments or concerns with the Public Utilities Board by September 7, 2009.

Customer responses were numerous and, as a result, the Board determined a public hearing was necessary.

#### **4.0 Customer Concerns and Additional Information**

The Board received 14 letters and emails from residents in the Grand Pines development expressing concern with respect to the proposed rates. Concerns included such issues as:

- Usage by the Golf Course.
- Allocating the rate to developed lot, undeveloped lot and golf course.
- No meters.
- Accuracy of expenses.
- Seasonal vs. permanent residents.
- No benefit of any water conservation efforts.
- Retroactivity.
- Proration of rates based on when property acquired.

At the Board's public hearing held on September 29, 2009 in Grand Marais, 17 residents attended. As well, one of GPDC's Directors attended, Michael Swistun.

Mr. Swistun provided a summary of the application and provided responses to concerns expressed by the residents.

Mr. Swistun conceded that a higher allocation of costs may have to be considered for the golf course's use of treated water, but recognized that without metering the entire system usage would have to be estimated. Mr. Swistun reconfirmed that GPDC was not prepared to install meters as it was of the view the cost would not be justifiable.

Mr. Swistun advised that during the months the clubhouse is occupied, approximately 7 months, usage is likely higher than that of a residence. He advised that the ~1,500 gallon septic tank at the clubhouse is pumped weekly during the time it is open. Mr. Swistun further indicated that usage at the maintenance building, while not as high as that of the clubhouse, would also

likely consume more than an average residence.

Subsequent to the hearing, GPDC estimated that 6,200 cart rounds have been the experience each season, and also estimated that approximately 2.5 gallons of water is used to power wash the carts (for an annual total of 15,500 gallons per year). The firm also advised that treated water is used to clean the golf course maintenance equipment. GPDC also advised that the total number of gallons of treated water flowing through the residential water system annually is estimated to be 1.6 million gallons.

Mr. Swistun advised that the expenses for 2009 were estimated, based on the actual costs for 2008 plus additional information with respect to future planning, inflation and contract arrangements. GPDC confirmed that beginning in January 1, 2009 a separate ledger will be maintained for the utility.

Mr. Swistun further indicated that should a "review engagement" by an auditor or audited financial statements be required, this would add \$1,000 to \$3,000 to the annual operating costs of the utility.

At the hearing, Grand Pines provided a spreadsheet with costs of electricity for the period from March 2007 to January 2009. The Board requested an analysis be provided of these costs including comment from GPDC with respect to proportionate shares between the golf course and residential use.

GPDC indicated that of the \$2,475 Hydro bill, approximately \$1,200 is a result of the use of the larger pump required in part as a result of the golf course. GPDC also suggested that \$200 should be charged directly to the golf course for the additional costs of chemical for this excess water.

Many of the residents that attended the hearing reiterated



concerns expressed in the previously received letters and emails.

## **5.0 Board Findings**

Ms. Susan Proven represented the Public Utilities Board at the hearing, and her observations, findings and decisions were subsequently supported and agreed to by Board Chairman Graham Lane.

Based on the information provided, the Board will vary the application for water rates for 2008 and 2009 and will not permit further increases until GPDC provides confirmation through financial statements of the actual revenues and expenses of the utility. Supporting information of any proposed increase will also need to be submitted.

The Board encourages GPDC to submit these financial statements early in 2010, so that if an increase in rates is required for 2010, proper notice can be provided to residents.

The Board acknowledges that by prorating utility bills, and depending upon when connection or occupancy occurred, the projected revenues for both 2008 and 2009 may not be sufficient to cover the actual costs. If costs are not covered, the Board expects an application will be submitted with a proposal as to how to address these shortfalls.

The Board also approves the charge to undeveloped properties and accepts GPDC's rationale for this charge. The Board, however, does recognize that some residents have purchased multiple lots and have constructed the primary building in such a way that construction of a second residence is no longer possible, i.e. where a house has been built in the middle of two lots. In these cases the Board encourages property owners to consider amalgamating these lots into one lot so as not have the

undeveloped lot charge applied in the future.

The Board is satisfied that the estimates provided for the operation of the utility are reasonable. The Board also notes that the estimates provided do not include an amortization expense or a proposed return on investment for the shareholders of GPDC. The Board is pleased to see the inclusion of a provision for a contribution to a reserve/surplus account, and recognizes that with the prorating of the annual charge a full contribution may not be able to be made for 2008 and/or 2009.

The Board suspects that rates will need to be reviewed again shortly, to ensure adequate funds are available to cover yet to be determined expenses for items such as an engineering assessment of the water system.

Water Stewardship's licencing conditions requires an assessment of all public water systems to be completed every five years. Other costs for upgrading the system to ensure it continues to meet regulation may be identified through this assessment. GPDC will have to address these issues as and when they arise, and the Board notes that GPDC has been advised that the first assessment is due to be filed by March 1, 2010; GPDC has indicated they will be seeking an extension.

The Board will require GPDC to track costs separately, and notes GPDC intends to do this, and provide separate financial statements for the utility. The Board will also seek confirmation from GPDC that the reserve/surplus fund is maintained in a separate interest bearing account, to be used only to the benefit of the utility.

GPDC is providing an essential service, critical to the health and welfare of the residents, and to continue to do so safely to

meet customer demand requires a utility with a strong financial position. It does not serve utility customers well to starve a utility of sufficient funds, which are required to allow for the safe operation of the utility.

This utility only came to the Board's attention when GPDC proposed to assess an annual usage fee to cover expenses incurred in 2008. The Board notes that clause 12 of the Development Standards agreed to by all purchasers, provides for an amount to be assessed.

While the Board does not support retroactive rates, it recognizes that there is a cost to operating a utility and these costs need to be recovered from the users. The Board accepts that costs were incurred in 2008 and varies the annual rate to be charged as noted in this order. GPDC will be required to make adjustments for those residents that have paid their bills, both for 2008 and 2009, and to extend the deadline for payment, also as noted herein.

While Board regulation of GPDC's system is new, GPDC has been providing water for some time, with no history of complaints filed with the Board.

This is typical with respect to other privately owned public utilities as well as cooperatively owned utilities, which were not regulated by the Board until 2008. Hence, for these utilities, the Board adopted a Complaints Based Regulatory Model, allowing for an analysis of rate proposals only given customer concerns. Information with respect to this type of regulation is available on the Board's website including the Minimum Filings required by these utilities.

The Board wishes to thank those who have contacted the Board's

office to register their concern, either by phone or in writing, and to those that attended the hearing held in Grand Marais; feedback is important and valuable in the Board's deliberations.

The Board agrees with the residents that usage at the golf course is higher than that of a residential property and therefore requires the golf course to be apportioned two residential shares of the annual fee for each the clubhouse and the maintenance building. Further, the Board will increase the annual pond filling fee from the proposed \$1,000 to \$1,400 a year, based on the additional information provided by GPDC.

Without the installation of meters, there is no way for the utility to monitor usage that may address the concerns with respect to seasonal vs. permanent residents, water conservation efforts or actual usage at the golf course.

The Board encourages that the Utility seek ways of providing some certainty to residents as to the total amount of water produced and distributed to the golf course, in particular. While the Board understands that full metering may be cost prohibitive, there are likely other mechanisms, including the metering of the golf course usage, GPDC could implement to help determine usage.

The Board understands the concerns of some seasonal residents that they are only there part time, however, notes that the utility is in operation and water services are available to all properties all year around.

The Board also recommends that with the many expressions of concerns from the residents with respect to the accuracy of the expenses, GPDC may wish to consider engaging an auditor to conduct a "review engagement" for the utility.

Board decisions may be appealed in accordance with the

provisions of Section 58 of *The Public Utilities Board Act*, or reviewed in accordance with Section 36 of the Board's Rules of Practice and Procedure (Rules). The Board's Rules may be viewed on the Board's website at [www.pub.gov.mb.ca](http://www.pub.gov.mb.ca).

6.0 IT IS THEREFORE ORDERED THAT:

1. The following annual charges for 2008 and 2009 and thereafter for water for Grand Pines Development Corporation BE AND IS HEREBY APPROVED as follows:

Year	Undeveloped Property	Developed Property	Golf Course Clubhouse	Golf Course Maintenance	Golf Course Pond Filling
2008	\$60	\$448	\$896	\$896	\$1,400
2009	\$63	\$486	\$972	\$972	\$1,400

2. Grand Pines Development Corporation shall not alter or vary this rate unless prior approval of the Public Utilities Board is obtained.
3. Grand Pines Development Corporation shall extend the due date for submitting payment to November 30, 2009 for 2008 water bills and December 31, 2009 for 2009 water bills.
4. On or before March 31, 2010, Grand Pines Development Corporation shall comply with the Minimum Filing Requirements under the Complaints Based Regulation.

Fees payable upon this Order - \$500.00

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, CA"

Chairman

"KRISTINE SHIELDS"

Acting Secretary

Certified a true copy of Order No.  
151/09 issued by The Public  
Utilities Board

Acting Secretary