

MANITOBA) Order No. 7/10
)
THE PUBLIC UTILITIES BOARD ACT) January 13, 2010

BEFORE: Graham Lane, CA, Chairman
Monica Girouard, CGA, Member
Susan Proven, P.H. Ec., Member

GRAND PINES
(REVIEW AND VARY APPLICATION)

Summary:

Mr. Larry Bainard and Mr. and Mrs. Ginter, seasonal residents in the Grand Pines development, disagree with the direction of Board Order 151/09, which established initial rates for Grand Pines Development Corporation's (GPDC) utility.

After a thorough review, the Public Utilities Board (Board) reaffirms Order 151/09 and the rates then-established, and also provides recommendations.

Background:

On November 2, 2009, the Board issued Order 151/09 approving initial rates for GPDC's utility as follows:

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 operates a golf course adjacent to the development; the golf course is a customer of the utility. For additional information about the utility and its initial application, refer to Order 151/09 (available on the Board's website).

The approved rates have retroactive effect, so as to allow GPDC to recover expenses incurred by its utility in 2008. As well, rates were established with respect to 2009 and future years, to remain in place unless amended by way of prior notice to

residents and the Board (as per the requirements of the Board's Complaint Based regulation of privately owned utilities).

The Board varied GPDC's initial proposal by increasing the annual rate for the Golf Course's Clubhouse and the Maintenance building to two times that of a developed property. The Board also increased the initially proposed annual charge to the Golf Course for pond filling from \$1,000 to \$1,400. The Board accepted GPDC's other proposals, including proposed assessments against owned but undeveloped properties.

There are neither individual meters nor plans to install meters for each residence.

There are 148 lots in the subdivision. In 2008, 31 lots had residences constructed and were connected to the utility system, and GPDC anticipated 42 connections to be in place by the end of 2009.

GPDC proposed, and the Board accepted, that a nominal amount be charged annually against undeveloped properties, representing a reasonable charge to ensure the utility remains viable until full hook-up occurs. Estimated revenues from undeveloped lots were \$7,020 for 2008, and \$6,678 for 2009.

Some undeveloped properties are likely never to be developed, as some owners purchased multiple lots - with their residences constructed in the middle of two lots, thereby rendering unlikely future development.

The Board's decision followed a September 29, 2009 public hearing, held as a result of 14 written complaints filed following a mail-out of GPDC's application; 17 residents

attended the hearing. At the hearing, GPDC provided the following information about the utility:

With water having been supplied to residents since 1997 at no charge by GPDC, GPDC proposed to begin recovering costs through rates. GPDC extracted from their overall accounting records the expenses that were related to the utility for 2008, and provided estimates for 2009 (as follows):

	2008	2009
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	3,000	3,000
Subtotal	\$20,760	\$27,060
Reserve Fund	<u>\$ 2,400</u>	<u>\$ 2,400</u>
Total	<u>\$23,160</u>	<u>\$29,460</u>

The golf course has both a separate pump house and a pump facility to provide untreated water for the course irrigation system, located near the golf clubhouse. GPDC advised that, occasionally during the summer, the golf course draws untreated water from the residential utility system to assist in filling ponds for irrigation purposes. GPDC further advised that such a draw was not needed during the last couple of seasons due to the wet weather.

Although some of the residents present at the hearing advised they were not convinced that GPDC's reported costs were accurate, as audited financial statements were not presented (or prepared), the Board, drawing on its experience with respect to

water utilities, accepted GPDC's recorded and estimated costs as being reasonable.

Of concern to many residents present at the hearing was the golf course's water use, and the assertion that, as many residents claimed to be seasonal, their residences could not possibly have consumed sufficient water to warrant an annual charge of \$400 to \$500.

The residents compared the cost of water and sewer services in Winnipeg to the proposed GPDC rates, and noted that they incur additional costs as their sewage holding tanks require regular pump-outs. (While some residents have strictly septic tanks, some have fields installed - accordingly, determining usage by reference to tank pump outs may not be appropriate.)

GPDC advised that the clubhouse has a kitchen sink, and offers drinks and sandwiches for sale. GPDC also advised that there are two tables in the clubhouse that can accommodate approximately eight people. There is an outdoor kiosk with a BBQ, and additional food services (but no running water at the kiosk).

GPDC provided the following information with respect to golf course usage:

6200 carts x 2.5 gallons for wash =	15,500 gal.
Washing equipment at maintenance building =	15,500 gal.
Treated water use ~1500 x 28 weeks =	<u>42,000 gal.*</u>
Annual estimated usage by the golf course =	73,000 gallons

*Board staff calculation based on weekly septic pump outs for seven months

GPDC estimated that the average number of gallons of treated water flowing through the system approximates 1.6 million annually. Based on this information, the golf course is

projected to consume 4.6% of the system's treated water, while being required to pay 13.8% of the annual expenses.

Many of the letters of concern sent to the Board and the issues brought forth at the hearing were similar. To follow is a summary of some of the concerns:

- Usage by the golf course. (The Board adjusted the application to meet this concern by doubling the annual rate of the Golf Course's clubhouse and maintenance building each and increasing the pond filling 'fee' by 40%.)
- Allocating the rate to developed lot, undeveloped lot and golf course. (The Board accepted the allocation to undeveloped lots as reasonable.)
- No meters. (The Board recommended GPDC install a meter to measure golf course use.)
- Accuracy of expenses. (The Board accepted GPDC's actual 2008 expenses and 2009 estimates as reasonable, but suggested that GPDC consider engaging an independent accountant to conduct an annual "review engagement" to provide residents more assurance.)
- Seasonal vs. permanent residents. (The Board accepted GPDC's rationale that the utility is not a seasonal utility.)
- No benefit of any water conservation efforts. (While the Board did not comment on this issue in the last Order, it

does recognize that conservation efforts tend to be less diligent for systems where actual use is not known, i.e. non-metered systems.)

- Retroactivity. (While the Board does not generally support retroactive rates, the Board accepted that GPDC had incurred past expenses for operating the utility even before 2008, and that it had provided notice of its intentions to implement cost recovery from the utility's users.)
- Proration of rates based on when property acquired. (The Board directed GPDC to prorate bills.)

Request to Review and Vary:

Mr. Bainard's email of November 26 advised the Board that the golf course clubhouse has:

- Two washrooms (used by staff, golfers which total up to 200 plus some days)
- Carts are washed every day
- Holding tank emptied weekly
- Equipment washing every day

Mr. Bainard suggested that "two times a resident" is not reasonable and that the assessment should be "four times". Mr. Bainard also suggested that seasonal residents should be given a break, on the basis that most seasonal users only stay an average of two months per year - with only two persons per residence, and, at the most, four.

He noted the difficulty in adjusting for some residences being seasonal, and suggested adjusting for this factor by setting the residential rate lower than GPDC proposed.

GPDC responded to Mr. Bainard's appeal and confirmed the following information:

- There are two washrooms as well as three outside portable washrooms (with no running water)
- Power carts are washed after each use, and noted Order 151/09 addressed this on page 8
- Advises the 1,500 gallon tank is emptied most every week, during the 6 months the course is open

GPDC advised that they were not in favour of seasonal rates as the utility is in operation through the entire year.

GPDC provided the following financial summary as they relate to fixed and variable costs of the water system:

	2008	2009
Projected Revenues	\$23,324	\$29,588
Fixed costs	\$20,650	\$26,422
Variable costs	<u>\$ 2,378</u>	<u>\$ 2,935</u>
Revised Totals*	\$23,028	\$29,357

*GPDC indicated the numbers vary slightly from its original submission due to GST calculations

Contribution from undeveloped lots	\$ 7,140	\$ 6,804
Contribution from Golf	\$ 1,400	\$ 1,400
Total costs to be recover from users	<u>\$14,488</u>	<u>\$21,153</u>

Developed lots at 1 REU	29	40
Golf Course at 2 REU's each	2	2

(Board staff calculated $\$14,488/33 = \$439/\text{REU}$ $\$21,153/44 = \$481/\text{REU}$)

GPDC did not record allowances for prorating the bills in the projected revenues and advised that of the total billings for 2008 and 2009, as of December 31, 2009 only \$27,307 had been remitted.

Phil and Susan Ginter (Ginter) wrote GPDC on December 22, 2009 requesting an adjustment to the 2008 bill by 50%, to reflect that their line was frozen.

GPDC forwarded the letter to the Board for review as Ginter's letter disputes the Board's decision and the charges laid out by Grand Pines. Ginter also suggested residential properties were using less water than GPDC estimated, based on conversations with neighbours and taking into account the average number of pump outs. Ginter advised that their house relies entirely on a holding tank, but acknowledged that some properties did have a septic field.

Ginter contended that the golf course uses 100 to 200 times that of a resident, especially weekend (seasonal) users, and asks that the golf course be obliged to install an accurate metering system to clarify usage between the golf course and the residents.

Ginter suggested that it is the golf course that has a fixed water usage cost as part of doing business regardless of the residents that are hooked to the same system, and if there were no residents connected to the water system GPDC would be paying relatively the same costs. Ginter advised that he challenges the

Board's decision to allocate two REU's to the clubhouse and maintenance building and one to each connected resident.

GPDC wrote in an email that because of Ginter's indication of intent to sue GPDC, GPDC was not willing to respond to Ginter's allegations and estimates. GPDC did, however, agree to reduce the Ginter's 2008 water bill to \$224 (without acknowledging any responsibility for the frozen line, and noting that no other resident experienced frozen water lines, suggesting that the problem may have arose from the line from the System to the home).

Discussion:

Without full metering, the concerns of seasonal residents will never be fully addressed -- GPDC has indicated no willingness to meter the entire system. However, GPDC, noting the cost of metering all properties and then of taking regular readings and billing based on use, has indicated a willingness to install meters to measure the use of the golf course (clubhouse and maintenance building).

GPDC has also indicated it is exploring feasible alternatives for addressing some of the issues identified by the residents and is still interested in either, with the residents' agreement, turning over the utility to the residents, or selling the assets of the utility to another party. The Board has been advised that the GPDC Board of Directors is to meet to discuss, amongst other items, these issues and possible options.

Based on the information provided by GPDC, the allocation of two times the annual rate of a residence for the clubhouse and the

maintenance building is reasonable. Under the Board's general guidelines for water utilities a restaurant with seating of 20 should be assigned one REU or one residential equivalency unit. Noting the extra water used for cart and equipment washing, the Board doubled the annual rate.

GPDC advised that treated water is not used for watering the greens, although this remains disputed by residents; GPDC advised that it uses a separate pump facility for irrigation.

Comparisons:

Many residents compared their bills to the charges in Winnipeg, which is not a relevant comparison. The City has the advantage of a large customer base and extremely large volumes of water over which costs may be recovered.

In a very small utility, such as GPDC's, fixed costs dominate.

In order to provide GPDC users more similar comparisons, the Board provides the following examples. Order 159/09 established water rates for Lavenham's 18 residents that amount to approximately \$540 per year. With respect to Dunrea, which has 46 customers, Board Order 84/09 established annual charges of \$415 and provided authority to increase the rates an additional 10% in 2010 and again in 2011. Lastly, in West St. Paul's Rivercrest development, the Board established an annual water and sewer charge of \$696 for 2009, of which \$378 is for water applied to the development's 64 water only customers.

All rates noted in the comparisons are to recover the annual costs of operating and maintaining the utility, not the capital costs of the system. Of note is that many costs in a municipally

owned utility are shared with either another utility in the same municipality or with the general operations of the municipality.

The Rural Municipality of Gimli (RM) provides metered water services to the clubhouse at Links at the Lake Golf Course, located in the Pelican Beach area. The RM advises that the actual volumes of water provided annually to the clubhouse alone averaged slightly less than 95,000 gallons in 2008 and 2009. This clubhouse has restroom facilities and provides seating for 20 to 30 people, at least two times the "seating" capacity of GPDC's clubhouse.

Board Findings:

Following a thorough review of the complaints filed and Board Order 151/09, the Board concludes that the Order is reasonable and the rates as set shall stand.

That said, the Board recommends that GPDC hold rates in 2010 until it develops a plan to address the water usage issues identified in this Order by either:

- o Installing meters for all users and the total water produced at the water treatment plant; or
- o Installing a meter for use to the golf course and the consumption of residents as a whole, and, as well, to gauge the total water produced at the water treatment plant; or
- o Providing the golf course with its own separate source of potable water; or

- o Some other alternative satisfactory to the Board to address the water usage issue.

In reviewing the projected expenses of the utility, the Board concludes that current rates are unlikely to be sufficient to meet all expenses.

The Board notes that an engineering assessment is required in 2010 (due by June 30) which is an expense not contemplated in any prior submissions by GPDC; another item is engaging an auditor to review the financial statements. As well, the current rates do not account for the ongoing depreciation of the assets, and, at some point, rates should reflect annual depreciation.

As to the indication that legal action may be taken against GPDC by a resident, the Board advises that legal costs incurred by GPDC may be allowed to be recovered through rates. The Board suggests discussion and compromise, rather than legal action.

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.

IT IS HEREBY ORDERED THAT:

1. The directions of Board Order 151/09 stand as issued.
2. Grand Pines Development Corporation take into account the recommendations made herein with respect to the metering of golf course water use.
3. Grand Pines Development Corporation give consideration to incorporating depreciation costs into future rate applications.

THE PUBLIC UTILITIES BOARD

"GRAHAM LANE, C.A."
Chairman

"KRISTINE SHIELDS"
Acting Secretary

Certified a true copy of Order No.
7/10 issued by The Public
Utilities Board

Acting Secretary