Memo

To: Hot Springs Village Board of Directors
From: Lesley Nalley, Chief Executive Officer
Date: June 21, 2017
Re: Assessment Escrow

Today, we revisit the assessment escrow decision to determine whether resuming the escrow practice is warranted. Below are related milestones in this multi-year discussion:

➤ October 21, 2015, the Board approved holding $27.48 from each monthly improved-property assessment payment beginning in January 2016. This represented 100% of the additional assessments received from the membership’s two-tier approval vote.

➤ December 21, 2016, after receiving word that the Supreme Court would not hear the case and was referring the case back to the appellate court, the Board approved discontinuing the escrow to avoid further deferred maintenance on priority needs.

➤ Upon finalizing 2016 and because of the operational constraints deployed during the year, cash was sufficient to repay the line of credit without dipping into the escrowed funds. While the board approved usage of the escrowed funds for repayment purposes in their December 21st motion, those funds were not used and the full escrow remained.

➤ Between January 2017 and today, no funds have been escrowed related to 2017 assessment payments. Rather, the decision was made to hold all non-essential capital spending, which included the pool project.

The decision at hand is whether 1) operational constraints, available line of credit, and investments are “insurance” enough or 2) resume the escrow. Some data to consider:

➤ Had the escrow continued into 2017, an additional $1.4mil would have been deposited in the escrow account thus far. This amount increases by an average of $250k per month.

➤ As noted on the Statement of Capital Additions, the remaining non-utility capital budgeted is $3.2mil and staff have been directed to hold capital spending wherever possible.

➤ We have an available line of credit of $1mil, which could be utilized as a short-term solution should operating cash be needed for assessment repayments.

➤ We have $1.5mil in a brokered CD account. Liquidating these funds would result in as much as a $63k penalty if all CDs were prematurely surrendered. Likewise, there will be a future cost to further deferring maintenance.

➤ The court will go into recess in July. Therefore, we do not expect a ruling before the fall.

While I remain optimistic that the court will uphold the membership vote, my recommendation is to resume escrowing with payments received from July forward. We currently have sufficient access to cash for the January - June receipts.
To: Board of Directors
From: Lesley Nalley, Chief Executive Officer
Date: December 21, 2016
Re: Motion – Approve Use of Assessment Payment Escrow funds to Pay off Line of Credit

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Motion

1. I move to approve the use of assessment payments held in escrow to pay off the $775k and accruing interest drawn on our line of credit in full.

2. I move to discontinue escrow of $27.48 from each monthly improved-property assessment payments beginning in January 2017.

Background

At the October 21, 2015 meeting, the Board approved holding $27.48 from each monthly improved-property assessment payment in escrow beginning in January 2016, until the Garner appeal is decided.

The Supreme Court appointed H.W. “Bud” Cummins, as special justice to take recused Justice Danielson place in deciding the Garner appeal.

On December 1, 2016 the Supreme Court advised Justice Cummins that the Garner appeal will not be submitted to the court until 2017. In light of Justice Danielson’s retirement on December 31, 2016, the election of a successor, and the case law found, Associate Justice-Elect Shawn Womack will be the qualified justice invested with the judicial power to decide the case.

As of December, HSVPOA has drawn $775k, with accruing interest, on our line of credit. It is recommended that we immediately repay the line of credit in full in order to cease interest expense.

The current escrow balance is $2.2mil and is estimated to be $2.9mil upon collection of 2016-related payments. We recommend keeping the escrow account balance at 100% of the excess collected for 2016 assessment payments. Any excess collected in 2017 will be used conservatively for addressing deferred maintenance needs.

Finally, it is recommended to put the pool project, the largest 2017 capital budget item, on hold until the Supreme Court rules.