

**Indian Mountain Community Meeting
Organized by IMPOA & IMRPD
Indian Mountain Community Center
September 2, 2012**

The Community Meeting was called to order at 2:00 pm.

IMPOA Board Members Present: Glenn Haas, Diana Heyder, Fred Whitaker

IMRPD Board Members Present: Bev Bushaw, Glenn Haas, Susan Stoval, Ron Vail

Estimated IM Residents in Attendance: 100+

Glenn welcomed the property owners, introduced the board members and reviewed the purpose and schedule of the meeting.

Topic 1: Updating IMRPD Service Plan

Glenn reviewed the IMRPD service plan and efforts underway to update it.

What is a Service Plan --- It provides the purpose of the special district.

- Overview of 1972 Service Plan: downhill ski complex & executive golf course

Why Update the Plan? Why now?

- Recommendation of previous Board to update and restate
- Consultation with Park County Attorney and Administrator, DOLA, SDA, Jim Campbell, District Water Engineer, HASP representatives, and IMRPD attorney Bob Cole
- Recent Colorado Supreme Court ruling against a special district
- 1972 plan is misleading and factually wrong

Services recommended to be provided by new Service Plan (park, recreation and water)

- Draft text of services to be provided handed out to all and reviewed
- Suggestions and concerns requested to be submitted in the next several days

What a new service plan would not do

- No change in mil levies, i.e., no change in taxes due to updating service plan
- No new buildings
- No land acquisition
- No new bonds or other financing

County Process

- The process of county review, public comment via letters to property owners and hearings, and approval by the Park County Board of County Commissioners (BOCC) was reviewed.
- Plan is to informally submit petition to update the District Service Plan in September and meet with county attorney and county administrator prior to formal submittal to BOCC.
- Expect submittal to BOCC late in October or November.
- Expect BOCC approval in early 2013

Q&A Period

Topic 2: IM Water Augmentation Plan

Glenn reviewed ongoing efforts by IMPOA and IMRPD in connection with the IM water augmentation plan using notes prepared by Roger Mattson, President of IMPOA, who was unable to attend because of a family emergency.

The Question: Who should own and implement the Indian Mountain water augmentation plan over the long term?

A water augmentation plan is a court-approved exchange of surface water rights for well permits. Colorado law changed in 1972 to require such plans for all new subdivisions in the state that depended on wells to supply water to individual homes. In brief, a water augmentation plan is a court-approved exchange of a certain amount of surface water (acre-feet per year) that was previously used in irrigation for the right to drill a certain number of wells in a new subdivision.

The IM augmentation plan was approved by water court decree on January 2, 1974. The court assigned the water rights and the augmentation plan to Meridian Properties, now Indian Mountain Corporation, (IMC) both owned by Jim Campbell. Mr. Campbell has administered the plan since that time without reimbursement from Indian Mountain.

There are some structures and facilities involved in the IM augmentation plan. They include “Long Pond” (so named for its length, not its owner) along side Tarryall Creek that receives water when flow in the creek is high enough. Then there is a head gate; about five miles of ditch called Slater Ditch; the Tarryall Ranch Reservoir; and finally another stretch of ditch between the reservoir and Park Gulch. There are liabilities and issues associated with all of these structures and facilities that are beyond the scope of today’s discussion.

The IMPOA board decided last winter to look into the status of the IM augmentation plan. Glenn and Roger were assigned that responsibility. Their efforts included three conferences with the water commissioner for our district, Garver Brown. Frankly, Mr. Brown’s opinion changed over the course of those discussions. His current position is that the augmentation plan always has complied with the 1974 water court decree. Although this position is different than what we thought at the time of the 2012 IMPOA annual meeting, it is good news. It takes away the immediate urgency to resolve the question of who should own and implement the Indian Mountain augmentation plan but it does not resolve the need to get a viable long-term solution.

The Elkhorn Ranch subdivision has a similar question about the long-term viability of its augmentation plan. However, there are differences relative to the Indian Mountain plan: The Elkhorn Ranch Owners Association (EROA) owns its augmentation plan and IMC implements it. We understand that there have been differences of opinion between EROA and IMC over the question of whether and how much EROA should pay IMC for its work to implement the plan. We have met several times with EROA representatives to discuss our mutual interests in the structures involved in both our augmentation plans.

With regard to these mutual interests in structures, the Tarryall Ranch Reservoir (TRR) is

probably the most important. There are three major players in questions surrounding the reservoir. Mr. Campbell says IMC owns the land under TRR but cannot provide a warranty deed for that land. Beartooth Capital, owner of the 2880 acre Cline Ranch, owns the land under the dam and much of the surrounding ranch land, including the land through which most of the Slater Ditch passes. Merchants Mortgage and Trust (MM&T) owns the remainder of the 160 acres surrounding the TRR. IMC has rights of access to the TRR because it owns the IM augmentation plan.

We have had several recent interactions with Jim Campbell, by Email, phone and a face-to-face meeting. At a June 26 meeting with Glenn and Roger, Mr. Campbell said he would like to see the IMRPD's service plan expanded to include water rights so it could buy the augmentation plan, the 160-acre parcel and the TRR.

We have also had a recent conversation with HASP (Headwater Authority of the South Platte). Dave Wissel is Park County Assessor and Chairman of HASP. He confirmed HASP's willingness to contract to implement the IM augmentation plan should IM come into its possession.

Several options are available:

- Create a new, mandatory HOA to buy the augmentation plan and the TRR, implement the plan directly or by a contractor and assess the property owners for the costs. (It is very difficult to create such an HOA. IMPOA is not a viable option for taking over the plan because it is a voluntary organization and cannot assess all property owners for expenses associated with water augmentation.)
- Create or hire a private entity to buy the plan and the TRR, meter the wells, charge for the water used and administer the plan. (This is basically the same situation we have now with IMC, except property owners would have to pay the new corporation and, like IMC, the approach would have uncertainty in its future.)
- The IMRPD, whose service plan is being updated, could purchase and administer the augmentation plan using a portion of the current and projected future tax revenues to pay the costs. At this time, if we could find a way for someone else to own the TRR, the costs of administering the augmentation plan are projected to be well within the funding capability of the current tax rate.
- With any of these options, there would be a benefit to Indian Mountain Subdivision to cooperate and share expenses with the Elkhorn Ranch Subdivision.

We have not retained counsel, but we anticipate having to do so before any deals are formalized.

We think that IMPOA and IMRPD should share the start-up costs in seeking a deal that satisfies the various parties.

Summary of Feedback

Based on comments and questions from the attendees, the members of the two boards that were present perceived the following reactions to what was presented.

1. Attendees understood the need to update the service plan. There was no push back at all.
2. There was a question about the use of the word "metropolitan" in the name of the district when it gets a new service plan. It was explained that the word metropolitan was applied to any district that provides two or more services. However, the word metropolitan does not connote some higher level of authority or power. Rather, it is a uniform labeling convention used by the State of Colorado to name any district providing multiple services.
3. People were mostly interested in the second topic. Some long time owners wanted to talk about 20 years ago and why things happened. There was strong negative sentiment expressed about Mr. Campbell's handling of this matter in the past. Others spoke up on his behalf and said he should have been invited. (IMPOA notes that Mr. Campbell was invited to the meeting in the same manner as all other property owners. He offered to speak but his offer was declined.)
4. The question was asked of why the water augmentation issue is coming up again. It was noted that IMPOA on its own initiative looked into the current implementation of the plan in early 2012 and was told that Mr. Campbell was out of compliance with his obligations to perform required water releases for two of the past three years. Further discussion with the water commissioner and an early 2012 release of water from the TRR by Mr. Campbell resolved the questions of noncompliance. However, the fact remains that Mr. Campbell has implemented the plan for more than 40 years and, like the IM property owners, seeks to resolve the long-standing issue of augmentation plan ownership and responsibility for the future.
5. There were several points of applause and group "thank you." Owners appear to appreciate what the two boards are doing and how well IMRPD and IMPOA are working together.
6. Attendees identified the need to get legal advice on some specific questions before proceeding with any purchase deal, as follows:
 - a. Did Mr. Campbell have a legal responsibility to turn the augmentation plan over to the IM community after the IM lots were sold? That is, don't the IM property owners already own the water augmentation plan by virtue of their purchase of property from Mr. Campbell? Said another way, why should the property owners in IM need to purchase their rights to have residential wells a second time?
 - b. Does Mr. Campbell have the right to sell, transfer, otherwise give or trade the IM water augmentation plan to anyone but the IM community?

After discussion of several ancillary points, the meeting adjourned at 3:30 pm. IMPOA president Roger Mattson finalized these minutes on September 12 based on input from and review by IMRPD and IMPOA board members who attended the meeting.