

**HARTSTENE POINTE WATER-SEWER DISTRICT  
MASON COUNTY, WASHINGTON**

**RESOLUTION NO. 2009-17**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF HARTSTENE  
POINTE WATER-SEWER DISTRICT, MASON COUNTY, WASHINGTON,  
PROVIDING FOR THE INDEMNIFICATION AND DEFENSE OF  
DISTRICT COMMISSIONERS AND EMPLOYEES.**

**WHEREAS**, RCW 4.96.041 authorizes the District to provide for the indemnification and defense of Commissioners and employees from and against actions or proceedings for damages arising from the performance, or the purported performance in good faith, of official duties; and

**WHEREAS**, to provide protection for District Commissioners and employees who act in good faith and within the scope of their employment or appointment, the District desires to provide for the defense and indemnification of such District Commissioners and employees; now, therefore

**BE IT RESOLVED** by the Board of Commissioners of the Hartstene Pointe Water-Sewer District, Mason County, Washington, as follows:

**Section 1.** The District shall provide to a Commissioner or employee such legal representation as may be reasonably necessary to defend any claim filed against the Commissioner or employee, arising out of the performance, purported performance or failure of performance in good faith of duties for or employment with the District. This legal representation shall be a condition of service to or employment with the District and shall be provided by the District's attorney or the District attorney's designee, except as may be provided under an insurance policy or self-insurance or joint insurance program.

**Section 2.** This resolution shall not apply to any dishonest, fraudulent, criminal or malicious act, to any act outside the scope of service or employment, to any lawsuit brought by or on behalf of the District or to any accident, occurrence or circumstance in which the District or a Commissioner or employee is insured against loss or damages under the terms of an insurance policy or self-insurance or joint insurance program.

The District attorney shall determine whether a Commissioner or employee was performing duties for or employment with the District in good faith, and whether a Commissioner or employee committed a dishonest, fraudulent, criminal or malicious act. The Commissioner or employee may appeal such determination to the Board of Commissioners.

**Section 3.** At the request of a Commissioner or employee, the District attorney or the District attorney's designee shall investigate and defend a claim which is covered by this resolution. If that claim is deemed by the District attorney or the District attorney's designee to be

a proper claim against the Commissioner or employee, the claim shall be paid by the District as long as the following requirements are met:

A. As soon as practicable after receipt of notice of a claim, the Commissioner or employee shall give the District attorney written notice of the claim, specifying the names of the Commissioners or employees involved, the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim, the names and addresses of all persons allegedly injured, the names and addresses of owners of allegedly damaged property, and the names and addresses of all witnesses;

B. The Commissioner or employee shall cooperate with the District attorney or the District attorney's designee and, upon request, shall assist in making settlements of any lawsuits and in enforcing any claim for subrogation against any persons or organizations that may be liable to the District because of any damages or losses arising from the incident or conduct; and

C. The Commissioner or employee shall attend interviews, depositions, hearings and trials as requested, and assist in securing and giving evidence and obtaining the attendance of witnesses.

If the District attorney or the District attorney's designee determines that a claim against a Commissioner or employee is not covered by this resolution and a court of competent jurisdiction in a final judgment finds that the claim is covered by this resolution, the District shall pay the claim and reasonable attorney's fees.

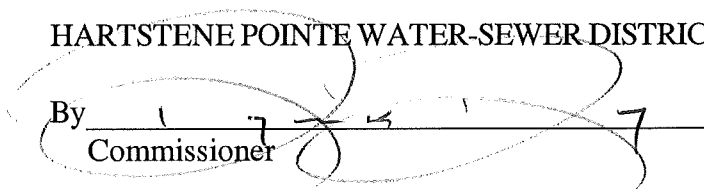
**Section 4.** If any Commissioner or employee elects to provide his or her own representation on any claim, this resolution shall be inapplicable and of no force and effect with respect to that claim.


**Section 5.** Nothing contained in this resolution shall be construed to modify or amend any provision of an insurance policy or any coverage through a self-insurance or joint insurance program. If there is a conflict between this resolution and the provisions of any such policies or coverage, the provisions of any such policies or coverage shall control.

**Section 6.** This resolution shall apply to any pending claim against a Commissioner or employee and to any claim hereafter filed irrespective of the date of the events or circumstances giving rise to the claim.

**ADOPTED** by the Board of Commissioners of Hartstene Pointe Water-Sewer District, Mason County, Washington, at a regular meeting held on 1/29, 2009.

HARTSTENE POINTE WATER-SEWER DISTRICT

By  Commissioner

By   
Commissioner

By *Mary Alice Cary*  
Commissioner