

## RECORD OF PROCEEDINGS

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### MINUTES OF A SPECIAL MEETING OF OF THE BOARD OF DIRECTORS OF THE CASCADE METROPOLITAN DISTRICT NO. 1 HELD JANUARY 27, 2015

A regular meeting of the Board of Directors of the Cascade Metropolitan District No. 1 (the "Board") was duly held on Tuesday, the 27<sup>th</sup> day of January, 2015, at 5:30 p.m., at the Cascade Fire Station, 8015 Severy Road, Cascade, Colorado. The meeting was open to the public.

#### ATTENDANCE

##### Directors In Attendance Were:

Mike Whittemore  
Mike Herr  
Bob Justis  
Troy Eason

##### Also In Attendance Were:

Leon Gomes; Special District Management Services, Inc.

Jennifer Gruber Tanaka, Esq., White Bear Ankele Tanaka & Waldron, P.C.

Andre Kilik and Duane Schorman; District Operators

Members of the Public; see attached list

#### DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Disclosure of Potential or Existing Conflicts of Interest: Mr. Gomes advised the Board that, pursuant to Colorado law, certain disclosures may be required prior to taking official action at the meeting. The Board reviewed the Agenda for the meeting, following which the members of the Board each confirmed that they had no conflicts of interest in connection with any of the matters listed on the agenda.

#### ADMINISTRATIVE MATTERS

Agenda: Mr. Gomes reviewed the proposed Agenda for the District's Regular Board Meeting.

Following discussion, upon motion duly made by Director Herr, seconded by Director Justis and, upon vote, unanimously carried, the Agenda was approved, as presented.

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### **Public Comment:**

Lisa Haight: Ms. Haight queried the Board regarding the litigation settlement and criminal charges against Terry Malcolm. Attorney Tanaka answered that the settlement is currently in draft form and is expected to be executed by the parties by March 10, 2015. Regarding the criminal charges against Terry Malcolm, Attorney Tanaka advised Ms. Haight that the criminal case is progressing and that she has requested information regarding the status of the case from the Fourth Judicial District Attorney's Office.

**Correspondence:** Mr. Gomes advised the Board that no correspondence had been received.

**Minutes:** The Board reviewed and considered the Minutes from the December 9, 2014 Special Meeting.

Following discussion, upon motion duly made by Director Eason, seconded by Director Justis and, upon vote, with Directors Whittemore, Justis, and Eason voting "aye", and Director Herr abstaining, the Board approved the minutes of the December 9, 2014 Special Meeting.

**Board Vacancy:** Attorney Tanaka discussed the vacancy on the Board and noted that Stephen Spaulding has expressed an interest in serving in the capacity of a Director, a position for which, she noted, he is qualified.

The Board entered into discussion regarding the appointment of Stephen Spaulding to fill the vacancy on the Board of Directors.

Following discussion, upon motion duly made by Director Herr, seconded by Director Eason and, upon vote, unanimously carried, the Board appointed Stephen Spaulding to fill the vacancy on the Board of Directors. Attorney Tanaka administered the oath of office. Attorney Tanaka noted that she will file the certificate of appointment and oath of office with the District Court and Division of Local Government after the meeting. The Board noted that the current officer position available is that of an Assistant Secretary and the Board designated Mr. Spaulding as an Assistant Secretary of the Board.

**24-Hour Posting Location:** The Board reviewed Resolution No. 2015-01-01 Designating 24-Hour Posting Location.

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Following review and discussion, upon motion duly made by Director Justis, seconded by Director Herr and, upon vote, unanimously carried, the Board adopted Resolution 2015-01-01 Designating 24-Hour Posting Location. A copy of the Resolution is attached hereto and incorporated herein by this reference.

### FINANCIAL MATTERS

**Claims:** The Board considered approval of the payment of payables through the period ending January 27, 2015, totaling \$44,911.07.

Following review and discussion, upon motion duly made by Director Herr, seconded by Director Spaulding and, upon vote, unanimously carried, the Board approved the payment of payables, as presented. Director Herr noted that the online statements match those that were presented to the Board through December 31, 2014. The Board noted that Mr. Spaulding needs to be added to the District's checking account as a signatory. Mr. Gomes will follow up to have Mr. Spaulding added.

**Financial Statements:** Mr. Gomes reviewed with the Board the unaudited financial statements for the period ending December 31, 2014 and the schedule of cash position dated December 31, 2014.

Following review and discussion, upon motion duly made by Director Justis, seconded by Director Eason and, upon vote, unanimously carried, the Board accepted the unaudited financial statements for the period ending December 31, 2014 and the schedule of cash position dated December 31, 2014.

### OPERATIONS MATTERS

**Operator's Monthly Report:** Operator Andre Kilik reported to the Board on the following matters:

1. Operator Kilik advised the Board that water usage was 2.3 million gallons as a result of a leak that developed in the main. Operator Kilik noted that the main is 18" deep and therefore susceptible to freezing.
2. Operator Kilik advised the Board that no updates are currently available regarding the water meter audit. Operator Kilik went on to discuss with the Board the need to access one meter, an undertaking that will necessitate Mr. Gomes notifying the property owner by mail.
3. Operator Kilik advised the Board that the Bluffs Hydrant needs repair and that he will contact Lamb Plumbing & Excavating to determine a time for doing so.
4. Operator Kilik advised the Board that he is working to determine a date to begin the waterline replacement at the Stults residence.

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5. Operator Kilik advised the Board that the District water tank had been inspected by JDS Hydro and that it is likely that a complete recoating is necessary to both the interior and exterior of the tank.

### LEGAL MATTERS

**Independent Contractor Agreement with Special District Management Services, Inc.:** The Board entered into discussion regarding an Independent Contractor Agreement with Special District Management Services, Inc. for 2015 Accounting and District Management Services.

Following discussion, upon motion duly made by Director Justis, seconded by Director Herr and, upon vote, unanimously carried, the Board approved the Independent Contractor Agreement with Special District Management Services, Inc. for 2015 Accounting and District Management Services.

The Board discussed the fees related to uploading the meter reads and noted the ability to save costs if the District had the ability to remotely upload the information directly. The Board directed Mr. Gomes to research the costs related to obtaining the necessary equipment for remotely uploading the meter reads.

**Service Plan Amendment for Refinancing and System Improvements and Inclusion of Boundaries:** Attorney Tanaka reported to the Board that she had submitted to the Board of County Commissioners a request to change the District Debt Limits due to the Service Plan containing a provision whereby Revenue Bonds are included in the definition of Debt Limit in the amount of \$2 million. Attorney Tanaka went on to report that she had had a conference call with the El Paso County Attorney's Office to request that the County waive the requirement to go before the El Paso County Planning Commission with the Service Plan Amendment and instead go directly to the El Paso County Board of County Commissioners with the Amendment. Her request was granted. Attorney Tanaka reported that the Service Plan Amendment requests that the Debt Limit be increased to \$5 million. The request for the amount of the Debt Limit increase is based on a District Engineer's estimate for the infrastructure improvements required to comply with Colorado Springs Utilities' standards for taking over the water system. Attorney Tanaka noted that notices must be sent to District residents twenty days prior to the public hearing date before the County Commissioners, which is reported to be February 26, 2015, and that El Paso County Land Development had assigned an additional staff member to work on the processing of the Service Plan Amendment. Attorney Tanaka will continue to keep the Board updated as to the final date of the public hearing once the County Commissioners have formally set the hearing date.

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Mr. Spaulding requested that Ms. Tanaka prepare a notice explaining the proposed amendment that is reader friendly for posting in the post office and other locations so that the customers can be advised of the proposal. Ms. Tanaka will prepare the notice for posting.

**Adoption of Resolution No. 2015-01-02 Proposing Inclusion of Property into District Boundaries:** Attorney Tanaka presented the Board with Resolution No. 2015-01-02 Proposing Inclusion of Property into District Boundaries. Attorney Tanaka noted that a notice of the hearing was published in a newspaper of general circulation within the District. Attorney Tanaka provided a general overview of the procedures and timeline for the proposed inclusion for the Board and those present and noted that a public hearing will also be held on February 17, 2015 after letter notification is provided to those within the proposed inclusion boundaries.

Following discussion, upon motion duly made by Director Herr, seconded by Director Justis and, upon vote, unanimously carried, the Board adopted Resolution No. 2015-01-02 Proposing Inclusion of Property into District Boundaries, a copy of which is attached hereto.

**Third Addendum to Independent Contractor Agreement between the District and JDS Hydro Consultants:** The Board entered into discussion regarding the ratification of a Third Addendum to an Independent Contractor Agreement between the District and JDS Hydro Consultants for work related to the study assessment under the Settlement Agreement with the City of Colorado Springs, Colorado Springs Utilities, et al.

Following discussion, upon motion duly made by Director Eason, seconded by Director Herr and, upon vote, unanimously carried, the Board ratified the Third Addendum to the Independent Contractor Agreement between the District and JDS Hydro Consultants.

**EXECUTIVE SESSION:** Pursuant to Sections 24-6-402(4)(b) and (e), C.R.S., upon motion duly made by Director Justis, seconded by Director Eason and, upon an affirmative vote of at least two-thirds of the quorum present, the Board convened in executive session at 7:30 p.m. for the purpose of discussing negotiations with third parties and receiving legal advice, as authorized by Sections 24-6-402(4)(b) and (e), C.R.S.

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Pursuant to Section 24-6-402(2)(d.5) (II)(B), C.R.S., no record will be kept of the remaining portion of this executive session that, in the opinion of the District's attorney, constitutes privileged attorney-client communication pursuant to Section 24-6-402(4)(b), C.R.S.

The Board reconvened in regular session at 8:37 p.m.

### **Actions Resulting from Executive Session:**

*Settlement Agreement among Cascade Metropolitan District No. 1, Realty Management Group, LLC, City of Colorado Springs, Colorado Springs Utilities, Philip J. Anderson, and Ratepayers:* Upon motion duly made by Director Herr, seconded by Director Eason and, upon vote, unanimously carried, the Board approved the Settlement Agreement among Cascade Public Service Company, Inc., Cascade Metropolitan District No. 1, Realty Management Group, LLC, City of Colorado Springs, Colorado Springs Utilities, Philip J. Anderson, and Ratepayers, subject to finalization.

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### **OTHER BUSINESS**

**February 17, 2015 Special Meeting:** The Board discussed scheduling a Special Meeting for February 17, 2015 in order to hold a Public Hearing regarding inclusion of property into the District.

Following discussion, the Board determined to schedule a Special Meeting on February 17, 2015 and to hold a Public Hearing regarding inclusion of property into the District at that meeting.

**Director Orientation:** Attorney Tanaka discussed with the Board the conduct of a director orientation. The Board determined to conduct the orientation over the course of two meetings in March and April at the beginning of each meeting, each starting at 4:30 P.M.

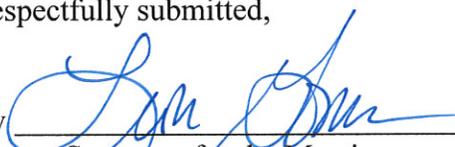
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### **ADJOURNMENT**

There being no further business to come before the Board at this time, upon motion duly made and seconded, and upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By

  
Secretary for the Meeting

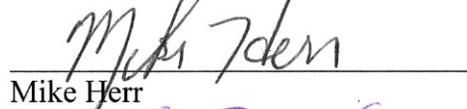
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THESE MINUTES ARE APPROVED AS THE OFFICIAL JANUARY 27,  
2015 MINUTES OF THE CASCADE METROPOLITAN DISTRICT NO. 1  
BY THE BOARD OF DIRECTORS SIGNING BELOW:



\_\_\_\_\_  
Mike Whitemore



\_\_\_\_\_  
Mike Herr



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Bob Justis

\_\_\_\_\_  
Troy Eason

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Stephen Spaulding

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### **Attorney Statement Regarding Privileged Attorney-Client Communication**

Pursuant to §24-6-402(2)(d.5)(II)(B), C.R.S., I attest that, in my capacity as the attorney representing the Cascade Metropolitan District No. 1, I attended the executive session on January 27, 2015 for the sole purposes of conferencing with the District's legal counsel for the purposes of receiving legal advice on specific legal questions and discussing matters subject to negotiation, as authorized by §§24-6-402(4)(b) and (e), C.R.S. I further attest that it is my opinion that all or a portion of the executive session discussion constituted attorney-client privileged communication as provided by §24-6-402(4)(b), C.R.S., and, based on that opinion, no further record, written or electronic, was kept or required to be kept pursuant to §24-6-402(2)(d.5)(II)(B), C.R.S.

  
Jennifer Gruber Tanaka, Esq.  
General Counsel  
Cascade Metropolitan District No. 1

**Resolution No. 2015-01-01**

**RESOLUTION  
OF THE BOARD OF DIRECTORS OF THE  
CASCADE METROPOLITAN DISTRICT NO. 1**

**DESIGNATING THE DISTRICT'S 24-HOUR POSTING LOCATION**

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WHEREAS, the Cascade Metropolitan District No. 1 (the "District") is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, pursuant to § 24-6-402(1)(a), C.R.S., the District is a local public body and subject to the provisions of §§ 24-6-401, *et seq.*, C.R.S.; and

WHEREAS, pursuant to § 32-1-903(2), C.R.S., notice of the time and place for meetings of the Board of Directors of the District (the "Board") is required to be posted in three (3) public locations within the boundaries of the District at least seventy-two (72) hours before any regular or special meeting; and

WHEREAS, § 24-6-402(2)(c), C.R.S., provides that, in addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the boundaries of the local public body no less than twenty-four (24) hours prior to the holding of the meeting; and

WHEREAS, pursuant to § 24-6-402(2)(c), C.R.S., the public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year; and

WHEREAS, the Board has determined to designate one of the three posting locations used for meeting notices in satisfaction of § 32-1-903(2), C.R.S. as its designated posting location for notices under § 24-6-402(2)(c), C.R.S.

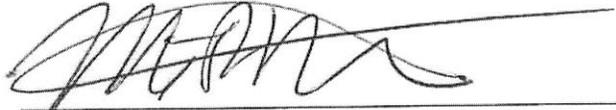
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Pursuant to § 24-6-402(2)(c), C.R.S., the Board hereby designates the following location for the posting of its twenty-four (24) hour meeting notices:

The westerly side of Martindale Avenue, approximately 200 yards south of Poplar Street, Cascade, Colorado.

ADOPTED this 27<sup>th</sup> day of January 2015.

CASCADE METROPOLITAN DISTRICT NO. 1

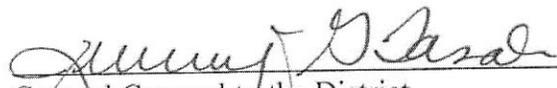
  
\_\_\_\_\_  
Officer of the District

ATTEST:

  
\_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

  
\_\_\_\_\_  
General Counsel to the District

*[Signature Page to Resolution Designating the 24-Hour Posting Location.]*