

# RECORD OF PROCEEDINGS

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**MINUTES OF A REGULAR MEETING OF THE  
BOARD OF DIRECTORS OF  
THE CHERRY CREEK VILLAGE WATER DISTRICT AND  
THE BOARD OF DIRECTORS OF ITS WATER UTILITY ENTERPRISE  
HELD  
JUNE 11, 2013**

A regular meeting of the Board of Directors of the Cherry Creek Village Water District and the Board of Directors of its Water Utility Enterprise (referred to hereafter as "Board") was held on Tuesday, June 11, 2013 at 9:00 a.m., at the offices of Community Resource Services, 7995 E. Prentice Avenue, Suite 103E, Greenwood Village, Colorado. This meeting was open to the public.

**ATTENDANCE**

The regular meeting of the Board was called and held, as shown, in accordance with Colorado law. The following directors were present:

John Forney  
Lou Schroeder  
Joseph Ryan  
Phil Viseur  
Roger Baer (via telephone)

Also present were:

Cathy Noon; Community Resource Services (CRS)  
Tim Flynn, Esq.; Collins Cockrel & Cole P.C.  
Greg Sekera; Kennedy/Jenks Consultants  
Phil Harris; Resident

**CALL TO ORDER**

Director Forney called the meeting to order at 9:15 a.m.

**QUORUM/QUALIFICATIONS/& DISCLOSURES**

It was noted that a quorum was present. All of the Directors are qualified and there are no conflicts of interest disclosures required.

**ADMINISTRATIVE ITEMS**

Agenda: Upon review and discussion of the Agenda and a motion duly made, seconded and, upon vote, unanimously carried, the Board accepted the agenda as amended to include III. Director Matters, Item A – Contractor Use of Water.

Minutes: The minutes of the May 14, 2013 regular Board meeting were presented to the Board. Following review and discussion, upon a motion duly made, seconded and, upon vote, unanimously carried, the Board approved the May 14, 2013 minutes as presented.

## RECORD OF PROCEEDINGS

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Public Comment: Mr. Harris, a resident of the District, asked to address the Board concerning charges assessed to his property, indicating that he had a renter in place who failed to pay water charges. Mr. Harris arranged for a payment plan but missed a payment which resulted in the water being shut off and penalties assessed. He indicated he is now living in the home and petitioned the Board for relief of these fees. Following discussion, upon a motion duly made to waive the turn-on fee of \$75.00 and miscellaneous fees of \$76.53 and seconded and, upon vote taken, motion failed.

A second motion was made to waive only the turn-on fee of \$75.00. No second was made and motion failed.

At the request of legal counsel, a motion was then made, seconded and, upon vote, unanimously carried, to go into an Executive Session pursuant to Section 24-6-402(4)(b), C.R.S., to confer with legal counsel for the purpose of obtaining legal advice. The Board then went into Executive Session at approximately 9:57 a.m. Present during the Executive Session were the five Board members, legal counsel, Cathy Noon and Greg Sekera. The Executive Session was not recorded because it was for the purpose of obtaining advice from legal counsel.

At approximately 10:02 a.m., the Board returned to Open Public Meeting and Mr. Harris re-entered the Board meeting. Following a brief discussion and following legal counsel's statement that there was a factual basis to settle this dispute, a motion was made, seconded and unanimously adopted to settle this matter for a lump sum payment from Mr. Harris in the amount of \$370.29 which is less than the full amount demanded by the District, but a portion of the excess amount was imposed for a service never provided. The motion was adopted by a vote of 4-1 with Director Ryan voting no. Mr. Harris accepted the settlement and agreed to make full payment as soon as possible.

Mr. Harris then left the meeting. A discussion then ensued concerning how payment plans are structured and administered. **The Board asked Ms. Noon and staff to work with Mr. Flynn to develop a form of letter agreement to be executed by the customer requesting and receiving an approved payment plan. Staff will further review possible options for verbiage on the utility bills and for reminder options for the customer on the months when utility bills are not mailed. The Board will consider whether to send**

# RECORD OF PROCEEDINGS

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**shut-off notices by both regular and certified/return receipt requested mail.**

## FINANCIAL ITEMS

Review and Approve Payment of Claims – Ms. Noon reviewed the May 2013 claims totaling \$42,620.77 represented by check numbers 4662 – 4672. Following review and discussion, upon motion duly made, seconded and, upon vote, unanimously carried, the Board approved the May 2013 claims as presented.

Review Cash Position: Ms. Noon reviewed the cash position with the Board for the period ending June 4, 2013. Following review and discussion, the Board accepted the cash position as presented.

Review Financial Statements: Ms. Noon distributed the financial statements dated June 4, 2013. After review, the Board accepted the financial statements.

Review Delinquent Account Report – Ms. Noon presented the report to the Board for their review.

## DIRECTOR MATTERS

Contractor Use of Water – Director Viseur indicated he had noticed a paving company in the area accessing water from District hydrant. Ms. Noon indicated they had contacted our office and had obtained a hydrant permit for this work. Following discussion, upon a motion duly made, seconded and, upon vote taken, carried unanimously, the Board voted to establish a fixed, non-refundable, rate of \$150 to cover the costs incurred by the District for hydrant inspections for use by outside contractors. **Mr. Flynn was directed to revise the current hydrant permit to reflect this cost.**

## MANAGEMENT MATTERS

Review Consumption Report – Ms. Noon reviewed the Consumption Report with the Board.

Update on Denver Water Drought Surcharge and Usage Monitoring – Ms. Noon reviewed the current Denver Water plan with the Board, indicating they had delayed the projected drought surcharge of \$.30/1,000 gallons until June 1<sup>st</sup> and further noting this may change again as Denver Water evaluates the situation at that time. Following discussion, upon motion duly made, seconded and, upon vote taken, motion carried unanimously to ratify, approve, confirm and implement a \$.15/1,000 gallons surcharge on the residential customers for the bill reflecting the May/June usage (to compensate for one month of no surcharge and one month at the .30 surcharge), \$.30/1,000

# RECORD OF PROCEEDINGS

---

gallons for the commercial customers for the bill reflecting June usage and \$.30/1,000 gallons for all customers beginning on July 1<sup>st</sup> if Denver Water does not rescind their adopted drought surcharge.

Discussion Regarding Possible Safety and Loss Prevention Grant Allocation from Colorado Special District Property and Liability Pool – Ms. Noon reviewed this information with the Board. No action was taken.

Discussion Regarding Request for Kennedy/Jenks to Develop Construction Documents for New Waterlines by the City of Greenwood Village – Mr. Sekera noted that the City had moved ahead with this issue and have hired Merrick & Company to develop the construction documents.

Moving of Excess Funds from Checking Account to Colotrust – Ms. Noon reviewed communications with Centennial Bank regarding the District's current investment instruments and possible options for the excess funds in the District's checking account, noting that this account with Wells Fargo is non-interest bearing. Following discussion, the Board directed staff to stay with the current instruments at Centennial Bank and **to move any excess funds, as needed, to the District's Colotrust Plus account.**

## MAINTENANCE AND OPERATIONAL MATTERS

Engineering Report – Mr. Sekera reviewed his report with the Board and indicated **he would check with Cherry Creek School District regarding the signed Conveyance and Acceptance for the Phase 4 Water Line Replacement.**

## LEGAL

Update on Greenwood Village/Marina Water Tap – Mr. Flynn and Mr. Sekera indicated they had both reviewed the history of this tap and were in agreement that as the City of Greenwood Village had never paid any portion of the tap fee, no adjustment should be made to the proposed fees by the District.

Update on Lead and Copper Report to Denver Water – **Mr. Flynn noted he is handling the required reporting on this issue.**

Cherry Creek Valley Intergovernmental Agreement – Mr. Flynn reviewed said agreement with the Board noting that a 60-day notice to Cherry Creek Valley is required for any rate increase. The Board indicated a desire to analyze the Cherry Creek Valley service area in the fall to re-evaluate and determine reasonable

# RECORD OF PROCEEDINGS

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rates for this area which is served by the agreement, but not as part of the District's service agreement. **Director Viseur will research the assessed valuation on these properties and CRS staff will provide 2012 usage figures for same. CRS staff will also research to see if the Cherry Creek Valley lines are included in the District's audit as assets.**

## ADJOURNMENT

There being no further business to come before the Board, upon a motion made, seconded and upon vote, unanimously carried, the meeting was adjourned at 11:48 a.m.

Respectfully submitted,



Secretary for the Meeting

## Attorney Statement

Pursuant to Section 24-6-402(2)(d.5)(I)(B), C.R.S., I, Timothy J. Flynn, state that I am general legal counsel for the Cherry Creek Village Water District and that I was present at the time the Board convened an Executive Session on Tuesday, June 11, 2013, at approximately 9:57 a.m. I further state that the Executive Session was not recorded because it constituted an attorney-client privileged communication, and that no electronic recording thereof was necessary. The Board did not adopt any proposed policy, position, rule, regulation or take any formal action during the Executive Session.

Date:

July 9, 2013

Signature:



Timothy J. Flynn