

# 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  
FEBRUARY 10, 2015**

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, February 10, 2015 at 8:45 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  
Phil Viseur  
Joseph Ryan  
Lou Schroeder  
Roger Baer

Also present were:  
Tim Flynn, Esq.; Collins Cockrel & Cole P.C.  
Greg Sekera; Kennedy/Jenks  
Sue Blair; CRS of Colorado  
JoAnn Long; Resident

**CALL TO ORDER**

Director Forney called the meeting to order at 8:58 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 presented.

Minutes: The minutes of the January 13, 2015 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 January 13, 2015 minutes.

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### PUBLIC COMMENT/ HEARING

Mrs. Long addressed the Board regarding her water being shut off and the \$150 turn off/turn on fee charged by the District. Mrs. Long asserted that sufficient notice was not given to her prior to her water service being turned off. She cited the District's rules and regulations which provide for a 15 day notice. She asserted she was only given eight days. In addition, due to her hectic schedule, she was not able to pick up the certified letter timely, and further asserted that the notice should have also been sent regular mail. Further, Mrs. Long asserted that \$150 was an unreasonable penalty when compared to the amount of her \$100 bill.

Ms. Blair clarified that her nine penalties over the last two years have averaged \$6 to \$11, and that the \$150 charge was not a penalty, but was a charge imposed to recover the District's out of pocket costs that the District paid to the contractor that turned off and on her water. Mrs. Long asserted that pursuant to the District's rules and regulations, she is entitled to a hearing prior to shut-off and that she did not have ample opportunity to request that hearing.

Director Viseur stated that the District, in recovering the \$150 it costs to turn on and turn off the water, is following common business practices. He noted that if the District isn't reimbursed by the customer for the cost associated with turn off/turn on fees, the rest of the District's customers end up paying that bill and, in essence, subsidizing the customer who is delinquent. Director Viseur further stated that the District receives its water through a contract with Denver Water. Denver Water sets the rates and the District must pay those. In years past, the District Board has not always passed along those increases to its customers. Director Viseur asked Mrs. Long how often she receives certified mail. She indicated this was the first time. Director Viseur asked Mrs. Long what she thought would be a proper settlement. She stated that she would be willing to pay the District \$25.00 in full settlement of this matter. Following clarification by the District's legal counsel, she acknowledged that a full settlement included a mutual release of all claims either party had against the other in connection with the shutoff of her water service. Director Schroeder stated that if he receives a notice of certified mail there is a sense of urgency since it is rare that he receives such a notice. He further clarified that the \$150 fee is not related at all to the amount of water bill.

Mr. Flynn requested that the Board enter into Executive Session

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pursuant to Section 24-6-402(4)(b), C.R.S., to consult or receive advice from the attorney on specific legal questions. Upon a motion duly made, seconded and, upon vote, unanimously carried, the Board entered Executive Session at 9:21 a.m. The Executive Session was not recorded because all of the matters discussed were privileged attorney-client communications.

The Board reconvened into General Session at 9:26 a.m.

Mrs. Long rejoined the meeting. Mr. Flynn stated that prior to Mrs. Long rejoining the meeting, but after the Board adjourned from Executive Session, and upon a motion duly made, seconded and, upon vote, unanimously carried, the Board agreed to accept the \$25.00 in full settlement with the understanding that full settlement included a mutual release of all claims by both parties. Mr. Flynn will draft a short letter to Mrs. Long and payment will be made after receipt and execution of said letter. The Board thanked Mrs. Long for attending today's meeting.

Mr. Flynn will review and revise the delinquent notice and rules and regulations regarding delinquent notices and shut-offs.

## FINANCIAL ITEMS

Review and Approve Payment of Claims: Ms. Blair reviewed the February 5, 2015 claims totaling \$25,291.80 represented by check numbers 4899-4908. Following review and discussion, upon motion duly made, seconded and, upon vote, unanimously carried, the Board approved the February 5, 2015 claims.

Review Cash Position: Ms. Blair reviewed the cash position with the Board for the period ending February 5, 2015. Following review and discussion, upon motion duly made, seconded and, upon vote, unanimously carried, the Board accepted the cash position as presented.

Review Financial Statements: Ms. Blair reviewed the financial statements dated February 5, 2015. After review, upon motion duly made, seconded and, upon vote, unanimously carried, the Board accepted the financial statements.

Review Delinquent Account Report: Ms. Blair presented the report to the Board for their review. After review, the Board accepted the Delinquent Account report.

Maturing CD Funds: Ms. Blair reported that Compass Bank continues to accept public funds, and is offering a 16-month CD at 1.15% if established during the month of February. Upon a

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motion duly made, seconded, and unanimously carried, the Board voted to have Ms. Blair reinvest \$100,000 in an additional Certificate of Deposit at Compass Bank for a term of 16 months earning 1.15% per annum. The Board requested that all documentation be completed prior to Directors going to the bank to sign said documentation.

## DIRECTOR MATTERS

Pledge of Allegiance: After review, upon motion duly made, seconded and, upon vote, unanimously carried, the Board established that the Pledge of Allegiance will be recited at the beginning of each Board meeting.

## MANAGEMENT ITEMS

Review Consumption Report: Ms. Blair reviewed the Consumption Report showing the January commercial usage. After review, the Board accepted the Consumption report.

Customer Consumption Data Reporting: Mr. Flynn reported that after reviewing HB1051, he recommends that the District provide the 2014 consumption report to Denver Water as it contains the requested information by category of customer. Mr. Flynn stated that providing the information by customer category will not affect Denver Water's ability to comply with HB1051. Mr. Flynn stated that the District should not provide confidential customer billing information to Denver Water, such as the specific amount of usage at a specific property address. After review, upon motion duly made, seconded and, upon vote, unanimously carried, the Board authorized Ms. Blair to forward the 2014 consumption report to Denver Water.

## MAINTENANCE AND OPERATIONAL MATTERS

Engineering Report: Mr. Sekera reviewed the Engineering Report which is made a part of these minutes.

Purchase of Hydrant Meter: Discussion ensued relating to the possible purchase of a hydrant meter at an estimated cost of \$2,500. Mr. Flynn suggested that perhaps multiple districts could purchase a hydrant for joint use. The Board requested that this item be on the March agenda for further consideration.

## LEGAL

Timothy J. Flynn reported to the Board as follows:

- a. Denver Water Rate Structure Review Committee. The Denver Water Rate Structure Review Committee continues to meet, but at the present time there is not definitive direction regarding what the rate structure that Denver plans to implement in 2016 will look like. It is

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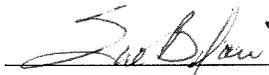
anticipated that at future meetings proposed rate structures will be reviewed and commented on by the Committee.

- b. Contract Review Report: none.
- c. Graywater – CDPHE: Mr. Flynn reported that the CDPHE and, in particular, the Water Quality Control Commission is proposing a rule that delegates to cities and counties authority to adopt a graywater use ordinance. Any city or county that does not adopt such an ordinance will not be permitted to authorize graywater use within its boundaries. It was noted that there is more feasibility of new construction implementing a graywater system than existing established neighborhoods. If a city or county adopts a graywater ordinance, that adopting entity will have to be responsible for policing the ordinance and ensuring that there will be no cross-connection between the graywater system and the water provider's potable water systems. The water provider also has an interest in this regard so, for example, if Greenwood Village were to consider such an ordinance, the District would want to monitor it and provide input to make sure that there was adequate cross-connection/backflow prevention provided for in the ordinance.

## 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 10:33 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, February 10, 2015 at approximately 9:20 a.m. I further state that the Executive Session was not recorded because it constituted a privileged attorney-client 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: April 14, 2015

  
Timothy J. Flynn

February 4, 2015

## **Memorandum**

To: Cathy Noon, District Manager  
From: Greg S. Sekera, P.E.  
Subject: Engineering Report for Board of Directors Meeting on February 10, 2015  
*Cherry Creek Village Water District*  
KJ Job No. 1546003\*GENW

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Briefly presented below are the items that we have been involved in during the past month.

1. Fire Hydrant Use Permit – Based on a request received a couple of weeks ago for a fire hydrant use permit and meter rental and previous discussions, we will work with Cathy and Tim to revise the fire hydrant permit for review and discussion at a future meeting.
2. 2014 Maintenance Summary – I am preparing the summary for last year and will have it complete for the March meeting.
3. System Maintenance – We coordinated the following maintenance items during the past month:
  - Water Line Breaks – No occurrences this past month.
  - Master Meter/PRV Adjustments – The most recent meter readings indicated that the Yosemite meter delivered 58% of the flow and the Dayton meter delivered 42%. Overall demands for the recent period were low. We are continuing to monitor flows.
  - Customer Complaints and Investigations – The following are investigations performed at the request of customers this past month.
    - i. None to report this past month.
  - Fire Hydrant and Valve Maintenance – C&L has prepared a list of their recommended hydrant and valve repairs based on last year's inspections. I am reviewing the list and will prioritize the most critical work. I will brief the board on the list at the meeting.
  - Cross-connection Control Program – We are waiting for Denver Water to notify as to when they will take over management of the District's cross-connection control program.
  - Facility Locates – Reviewed locate requests for miscellaneous construction in the District.
  - Maintenance Tracking – A copy of the maintenance tracking/schedule is attached.