

RECORD OF PROCEEDINGS

**MINUTES OF A REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
HOLLY HILLS WATER AND SANITATION DISTRICT
AND THE BOARD OF DIRECTORS OF THE
WATER UTILITY ENTERPRISE
HELD
FEBRUARY 15, 2017**

A Regular Meeting of the Board of Directors of the Holly Hills Water and Sanitation District and the Board of Directors of the Water Activity Enterprise (referred to hereafter as "Board") was convened on Wednesday, the 15th day of February, 2017, at 7:00 p.m., at the Skyline Firehouse, 6000 E. Yale Avenue, Denver, Colorado 80222. The meeting was open to the public.

Directors In Attendance Were:

Raymond V. Henney
Gary J. Crosby
Irina Bovee
David Plaul
William Dilatush

Also In Attendance Were:

AJ Beckman; Special District Management Services, Inc.

Timothy J. Flynn, Esq.; Collins Cockrel and Cole, P.C.

Richard Cassens; ENS Consulting, LLC

See attached list for additional attendees

**ADMINISTRATIVE
MATTERS**

17.54 Agenda: Mr. Beckman presented the Agenda for the District's Regular Meeting.

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

17.55 Minutes: The Board reviewed the minutes of the January 18, 2017 Regular Meeting.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Henney seconded by Director Plaul and, upon vote, unanimously carried, the minutes for the January 18, 2017 Regular Meeting were approved.

OPERATIONS

17.56 Sewer Backup: Mr. Beckman noted that several members of the public were in attendance and asked those in attendance if they would like to address the Board. Mr. Riley, who had wastewater from the District's sewer system backup into his basement on December 24, 2016 inquired as to the basis of the conclusion by the District's insurance provider that there was no negligence on the part of the District, and requested that any documents or information included in their analysis or reviewed by the District in connection with their conclusions be made public. Mr. Flynn explained that many of the documents relied upon by the insurance provider are privileged and are not public documents. He described the standard of care applicable to the maintenance of sanitary sewer systems and noted that the insurance provider determined that the District had not deviated from that standard. Attorney Flynn acknowledged that the District is in receipt of most Mr. Riley's claimed damages. He explained that because the insurance carrier has denied liability the District is under no legal obligation to pay all or any of the claimed damages. He indicated that the District Board may consider paying a portion of the damages in exchange for a full and complete release, but that in all likelihood the District's offer will not cover all the claimed damages.

Mr. Sheehan inquired as to the cause of the sewer backup. Attorney Flynn noted that the blockage was believed to be caused in part by remnants, known as "coupons" which may have been left in the District's sewer collection system by a contractor that recently lined a portion of the District's sewer mains. The presence of the "coupons" was noted in a report prepared by DRC Construction ("the Report"). DRC responded to the incident on December 24, 2016 on the District's behalf. Mr. Riley then referred to the Report noting that the blockage was located at a tee within a manhole and further noted that the size of the sewer line upstream of the manhole where the blockage occurred is six inches in diameter rather than eight inches as shown on the system drawings. Mr. Riley then asked the Board if it is responsible for the actions of its contractors. Attorney Flynn explained that the cause of the blockage is being further investigated and the Board is not in a position to discuss the potential responsibility of District contractors at this time. Mr. Sheehan asked about the District's maintenance schedule. Mr. Beckman responded that approximately one third of the District's collection system is cleaned and video inspected per year. Mr. Sheehan then stated that in his opinion the presence of coupons in the system would seem to be an extraordinary condition, and asked what research is underway to

RECORD OF PROCEEDINGS

determine the origin of the coupons. Attorney Flynn explained that the District is investigating the source of the coupons, however the District's research is not yet complete.

Ms. Riley addressed the Board stating her concern that the conclusion of the Report seems in her opinion to be inconsistent with the insurance company's conclusion, particularly since the conclusion of the District's insurance provider deems the incident to be sudden and accidental. Mr. Riley asked for clarification regarding the District's responsibility. Attorney Flynn explained that the District has the responsibility to maintain the system, in accordance with an accepted standard of care, and that in the opinion of the District's insurance provider the District has met that standard of care and accordingly is not responsible for the sewer backup that occurred.

Director Henney discussed the re-lining projects that have been happening over the past twenty years or so, noting that approximately 90% of the District's sanitary sewer mains have been re-lined. Mr. Riley asked if the information used by the insurance provider to come to its conclusion would be shared with the public. Attorney Flynn reported that the insurance provider's analysis would most likely not be made available to the public. Mr. Riley expressed concern that the District may not act in a timely manner thus precluding him from filing a claim within the statutory deadline. Attorney Flynn explained to Mr. Riley that he must put the District on notice of his intent to file a claim within 180 days of the incident and noted that there is nothing to prevent him from taking such action. Mr. Riley noted that in his opinion the reduced diameter of the line upstream of the manhole where the blockage occurred, as well as the tee within the manhole and the District's response time to the initial incident all contributed to the incident and the District's liability. He further recommended that the District have the system inspected by an independent engineer. Ms. Cole addressed the Board noting the apparent design issues quoted in the Report, and stated her opinion that there appears to be a design issue contributing to the likelihood of a blockage occurring at the manhole in question.

LEGAL MATTERS

17.57 Statement of Purpose: Due to the press of business, discussion of the District's statement of purpose was deferred until a subsequent meeting.

17.58 Xpress Bill Pay: Attorney Flynn reviewed with the Board the Agreements in connection with Xpress Bill Pay.

Following discussion, upon motion duly made by Director Henney, seconded by Director Bovee and, upon vote, unanimously carried, the Board approved the Express

RECORD OF PROCEEDINGS

Bill Pay Agreements and authorized Mr. Beckman to execute the Chase Bank Agreements, provided they are modified in substantially the same manner as previously modified by Legal Counsel for the Northwest Lakewood Sanitation District, which is also represented by Mr. Flynn.

FINANCIAL MATTERS

17.59 Approval of Claims: Mr. Beckman then reviewed with the Board the claims for the period ending February 15, 2017, as follows:

General Fund:	\$ 9,139.40
Capital Projects Fund:	\$ -0-
Enterprise Fund:	\$ 104,160.04
Total:	\$ <u>113,299.44</u>

Following review and discussion, upon motion duly made by Director Plaul, seconded by Director Dilatush and, upon vote, unanimously carried, the Board approved the payment of claims for the period ending February 15, 2017, as presented.

17.60 Unaudited Financial Statements: Mr. Beckman reviewed the unaudited financial statements of the District setting forth the cash deposits, investments, and budget analysis for the periods ending January 31, 2017.

Following discussion, upon motion duly made by Director Henney, seconded by Director Bovee and, upon vote, unanimously carried, the Board accepted the unaudited financial statements for the periods ending January 31, 2017.

17.61 Delinquent Accounts: Mr. Beckman reviewed the Delinquent Accounts list with the Board.

OPERATIONS CONTINUED

17.62 Sewer Line Cleaning: There was nothing new to report.

17.63 Grease Trap Inspections: Mr. Beckman reviewed the report with the Board.

CAPITAL PROJECTS

17.64 2017 Capital Projects: The Board discussed the sewer line that discharges into and from manhole 87. Mr. Cassens noted that in order to expand the diameter of the sewer line it would have to undergo a process known as pipe bursting. Mr. Cassens noted that cost would likely exceed \$100,000. Mr. Riley noted that coordinating with the Yale Street improvements planned by the City of Denver would likely reduce the cost.

RECORD OF PROCEEDINGS

EXECUTIVE SESSION

17.65 Executive Session: Following a brief discussion, at approximately 8:23 p.m., pursuant to Section 24-6-402(4)(b) and (e), C.R.S., upon motion duly made by Director Henney, seconded by Director Dilatush and, upon an affirmative vote of all Directors present, the Board convened in executive session for the purpose of receiving legal advice with respect to the sewer backup matter on December 24th and determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators.

Those present during the executive session consisted of Directors Henney, Bovee, Plaul and Dilatush; Legal Counsel, District Manager, and Rich Cassens.

The executive session was recorded in its entirety by Mr. Beckman. The meeting adjourned at approximately 9:10 p.m.

OTHER BUSINESS

Resignation of Director: Director Crosby addressed the Board and noted in part due to the unpleasanties arising out of the recent sewer backup, he is resigning from the Board of Directors. The resignation of Director Crosby which is effective as of February 15, 2017, was reluctantly accepted by the Board.

ADJOURNMENT

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

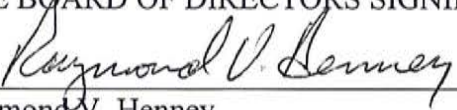
Respectfully submitted

By: 


Secretary for the Meeting

RECORD OF PROCEEDINGS


THESE MINUTES ARE APPROVED AS THE OFFICIAL FEBRUARY 15, 2017 MINUTES OF THE HOLLY HILLS WATER AND SANITATION DISTRICT BY THE BOARD OF DIRECTORS SIGNING BELOW:



Raymond V. Henney



Irina Bovee



William Dilatush




David Plaul

ATTORNEY STATEMENT

Pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S., I, Timothy J. Flynn, state that I am general counsel for the Holly Hills Water and Sanitation District and that I was present at the time the Board convened in Executive Session on Wednesday, February 15, 2017 at approximately 8:23 p.m. The Board did not adopt any proposed policy, position, rule, regulation or take any formal action during the Executive Session.

Date: 3/15/2017

Signature: 

Timothy J. Flynn

Nate Smallcombe 2800 S. Kearney St

Chris Sheehan 6091 E Dartmouth Ave

Sibylle + James Riley 2801 S. Holly Pl

Kathy Shearer 3015 So. Jasmine

Irvin Moss " "

Genoje Curran 2960 S. Holly Pl

Patricia + David Schadle 2741 S Kearney St

BRIAN Reynolds 3098 S. Holly Pl.

Nick Sullivan 2800 S Ivenhoe St

Donna J Cok 2860 S. Holly Pl