

RECORD OF PROCEEDINGS

**CHERRY HILLS SANITATION DISTRICT
REGULAR MEETING**

Thursday, July 14, 2022, 7:30 a.m.

Backporch Café

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PRESENT: Board members, Mr. Steve Vessey, Mr. Danial Larsen, Mr. Randall Siddens, Mr. Sean Rogers, and Mr. Robert Brown. Staff: Mr. Chuck Vessey, Mrs. Jeri Vessey, Mr. Brad March and, Mr. Bill Wallen. Guest attendee: none. Absent: none.

APPROVAL OF AGENDA FOR JULY 14, 2022: On motion by Mr. Rogers seconded by Mr. Siddens the meeting agenda was unanimously approved.

PRIOR MINUTES. On motion by Mr. Brown seconded by Mr. Rogers the June 9, 2022, minutes were approved unanimously.

FINANCIAL STATEMENTS FOR JUNE 2022: Mr. Chuck Vessey, The financials reflect additional employee costs for the summer. Auto expenses are up based on fuel costs for hydro-cleaning, maintenance and repairs were up for lift station repairs. The district is over budget, but this ought to be recovered as the year progresses.

DELINQUENT ACCOUNTS OVER \$400: 2nd Quarter ended at \$4058.59 and 3rd quarter is starting at \$22,999.59, Terry Lake Properties on west Douglas Road is delinquent two quarters. Customers over \$500 were:

Bertles	\$561.00
Gallegos	\$561.00
Gordon	\$506.00
Holmes	\$736.00
Rock Bridge	\$622.00
Rura	\$768.59
Terry Lake Properties	\$7,410.00

We will reassess next month after July payments come in.

MAINTENANCE: Mr. Chuck Vessey

Mr. Vessey advised that there were three backups within the last month,

- 2220 Franklin Road: There was a backup in the main, Mr Wallen advised that the district responded and found towels and something large and pink in the main (thought to be a t-shirt or towel). The main line was cleaned (regular maintenance) in 2021 and was replaced a number of years ago from a clay to PVC line. The customer has already removed the carpet in their basement.
- 1308 Lindenwood Drive: This was likely a service line cleaned upstream pushing their debris into the main without notifying CHSD. The debris was located and caused a backup at the manhole. This main line had been cleaned earlier in the spring of 2022.

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- 1309 Lindenwood Drive: This is from the same circumstance as 1308 Lindenwood, although the impact was less severe.

The District's rules provide at Article II

Section 2: Liability. It is expressly stipulated that no claim for damage shall be made against the District by reason of the following: Blockage in the Sewage System causing the backup of effluent; damage caused by inspection of lines to determine connections made to District lines; breakage of Sewer Mains or Service Lines or for any interruption of sewer service and the conditions resulting therefrom, except damage resulting from gross negligence or wanton and willful misconduct of the District or its authorized employees.

In the event that the performance by the District of any of its obligations or undertakings hereunder shall be interrupted or delayed by an occurrence not occasioned by the conduct of the District, whether such occurrence is by an act of God or the common enemy or the result of war, riot, civil commotion, sovereign conduct, or the acts of any other person or entity, then the District shall be excused from such performance for such period of time as is reasonably necessary after such occurrence to remedy the effect thereof.

Mr. Vessey advised that one of the backup customers worked for the Fort Collins utility department and had taken the strong position that the City had determined that it was liable for backups and similarly the district had backup liability. As a result of the contact Mr. Vessey contacted Mr. March. Mr. March advised that it had not been his experience that the City generally assumed liability for problems in the main, and to the contrary he had represented clients who had experienced City main line backups and liability had been denied by the City. Based on the information received, Mr. March exchanged emails with John Duval in the City attorney's office. Mr. March sent an email that spelled out what he believed to be the City's position and he read the email which provided:

Like most providers it has been my understanding that the City takes the position that as long as its lines are regularly maintained, and the City had no knowledge of a problem, the City denies liability.

Mr. Duval's responsive email was shared with the board and provided:

[Y]ou have accurately described the City's current policy in addressing sewer line backups.

Maybe what the employee is thinking about is that there was a different policy in the past – probably more than fifteen years ago. Under the past policy, the City paid backup claims up to a certain limit. Essentially treating them as a cost of doing business and accounting for these additional costs in the setting of rates. You might think of it as ratepayers paying for backup insurance in their rates. This was

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the policy when I left Fort Collins to go to Loveland, but it was not in effect when I returned to Fort Collins. So, not sure when it changed.

Also, there was some consideration since I got back to Fort Collins to return to the past policy, but this has not happened. So again, the policy you describe below is the current policy.

In review of previous response to past backups, the board has allowed some payments. When contacted, the district has and will provide a level of in-house cleaning/remediation services as a customer service. There was discussion surrounding whether the board was inclined to consider broadening its stance on paying for backup related costs. Mr. March advised that it was his legal position that as long as mains have been properly maintained and there was not a basis to foresee the backup occurrence, he did not feel that the district was in a position of liability.

Mr. Siddens raised the question of whether the district should consider adopting a policy but after discussion of the District's position in the past the proposal for consideration of an additional policy was withdrawn. Mr. March was directed to contact the customers who had experienced backups and to advise of the district's position.

RESOLUTIONS FOR INCLUSIONS

2404 Westview Road, Fort Collins, CO 80524, Siddens

2108 Sherell Road, Fort Collins, CO 80524, Sadler

Mr. March advised that inclusion materials had been filed with the court, county, and Department of Local Affairs.

The Larsen's have invited the board members to a potluck event next weekend at the their home.

No further business having come to the board, the meeting was adjourned at 8:27 a.m.

Respectfully submitted,

Jeri Vessey, Recording Secretary