

**CHEROKEE METROPOLITAN DISTRICT
SPECIAL MEETING OF THE BOARD OF DIRECTORS
MINUTES**

The Board of Directors Special Meeting was held remotely via Zoom on Monday, February 24, 2025, at 5:30 p.m.

#1. Call to Order

Director Wall called the meeting to order at 5:30 p.m. Directors Wall, Kinney, Wilson, Bandy, and Sintas were present, and there were no Directors' qualifications or disclosures.

#2. Review and Approval of the Agenda

The agenda was reviewed for changes. There were none.

Motion: Director Wilson motioned, seconded by Director Sintas, to accept the February 24, 2025, agenda as presented. Motion unanimously passed.

#3. Public Comment

Customers Brandon and Cynthia Whitworth residing at 1915 Fulton Ct. spoke before the Board. Mr. Whitworth stated the Fulton Ct water intrusion resulted in extensive cleanout activities in his home with a cost exceeding \$13,000.00. Their next step is to find a renovation team to begin the remediation process and they are requesting a resolution by the District to get their home restored.

Thomas Brewster, residing at 1905 Fulton Ct, also spoke about the Fulton Ct. water intrusion and requested replacement value for his loss, acknowledging he did not carry flood insurance on his home. He also questioned the District's insurance carrier's investigation of the break, pipe integrity, and supposed comments made by staff.

#4. Old Business/Follow Up

Director Wall stated the Board is taking the Fulton Ct. water break and damage to homeowners property very seriously and will strive to make the recovery process as smooth as possible.

Interim General Manager Kevin Brown provided an update based on the homeowners' concerns and explained the circumstances which occurred during and after the main break. He advised that alleged comments made by District operators were not correct, and the installation and construction of the water main was inspected during and after completion prior to being accepted by the District. In addition, there are no records of, nor was there any evidence of repairs to the main that occurred since the main was installed more than twenty years ago. Mr. Brown believes

the District response time was within the expected range considering the water intrusion was a more complex operation than just a water main break. Mr. Brown also stated there were two breaks that occurred simultaneously during extreme cold weather, and the District did not experience any pressure surges with either break.

Tom Brewster addressed the Board and asked if the pipe in question was preserved by the District. Mr. Brown stated he was not sure but would attempt to locate the pipe. Mr. Brewster stated several concerns regarding the insurance carrier's determination of District immunity to any type of action; he felt the liability issue was not thoroughly researched; that the pipe in question should have been preserved as a key piece of evidence, and if needed, he would seek the names of involved employees by deposition.

Legal Counsel Joan Fritsche addressed the residents with a brief discussion and explanation of the Governmental Immunity Act which limits the type and amount of damages a state or local government in Colorado is required to pay if found liable for damages for its activities, such as the main break that occurred on Fulton Ct in January and that the District's insurance policy provides for a no-fault payment to customers in the amount of \$10,000 when flooding occurs due to a main break or back up where the District is found not to be at fault after investigation by its insurance carrier.

The District's insurance carrier, the Colorado Special Districts Property and Liability Pool, directs its claims administrator to investigate water and sanitary sewer main breaks and back ups, to take measures to determine the damage that occurred, and to determine if the District was at fault for the break or back up. Ms. Fritsche stated the break was investigated by the claims administrator which found the District was not at fault for the water main break, and a \$10,000.00 no-fault payment will be paid by the District's insurance carrier to each affected homeowner.

The Board requested more detailed information on each property owner's and renter's damages to better evaluate the District's response.

Mr. Brown indicated the District will address its procedures for responding to main breaks or back ups and will obtain Board approval regarding streamlining the District's policies and procedures addressing damage to customers structures and property going forward.

#5. Executive Session

Director Wilson motioned, seconded by Director Sintas and unanimously carried to go into Executive Session at 6:00 p.m. pursuant to §24-6-402(4)(b), C.R.S., for a conference with the District's attorney regarding legal advice on specific legal questions, and §24-6-402(4)(e), C.R.S., determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators concerning the Fulton Court Water Intrusion.

The Directors, Legal Counsel Joan Fritsche, Interim General Manager Kevin Brown and Brian Beaudette attended the Executive Session.

Director Wilson motioned, seconded by Director Bandy and unanimously carried to come out of executive Session at 7:15 p.m.

Motion: Director Kinney motioned, seconded by Director Wilson to direct staff to obtain the replacement value of the property damage to the four homes impacted by the Fulton Court water intrusion; and the Board authorized a “good faith payment” for the difference between the District’s \$10,000.00 no-fault payment and each property owners’ replacement value, as determined by the District’s insurance adjuster. Motion unanimously passed.

#6. Adjournment

There being no further business to come before the Board, the meeting adjourned.


Jeff Bandy, Secretary

Attorney Fritsche certified for the record that the Executive Session was not recorded, as the matters discussed in Executive Session constituted privileged attorney-client communications.


Joan M. Fritsche, Esq.