

RESOLUTION

BE IT RESOLVED THIS 26th DAY OF MAY, 2011 BY THE BOARD OF TRUSTEES OF THE BLACKWATER REORGANIZED COMMON SEWER DISTRICT THAT THE FOLLOWING IS ADOPTED AS THE POLICY OF THE DISTRICT:

BLACKWATER REORGANIZED COMMON SEWER DISTRICT

CLOSED AND OPEN MEETINGS, RECORDS AND VOTES POLICY

SECTION ONE: DEFINITIONS

As used in this Article, unless the context otherwise indicates, the following terms shall have the meanings respectively ascribed to them:

CLOSED MEETING, CLOSED RECORD OR CLOSED VOTE: Any meeting, record or vote closed to the public.

PUBLIC GOVERNMENTAL BODY: Any legislative or administrative governmental entity constituting a part of the Blackwater Reorganized Common Sewer District created by the Constitution or Statutes of this State, by order or ordinance of any political subdivision or district or by executive order, including any body, agency, board, bureau, commission, committee, or any Court or of any Municipal Government, any other legislative or administrative governmental deliberative body under the direction of three (3) or more elected or appointed members having rule making or quasi-judicial power, any committee appointed by or under the direction or authority of any of the above-named entities and which is authorized to report to any of the above-named entities, and any quasi-public governmental body. The term "quasi-public governmental body" means any corporation organized or authorized to do business in this State under the provisions of Missouri Revised Statutes, Chapters 352, 353 or 355, or unincorporated association which either:

- 1 Performs a public function as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation, or other means the allocation or issuance of tax credits, tax abatement, public debt, tax-exempt debt, right of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from a public governmental body, but only to the extent that a meeting, record, or vote relates to such appropriation; or
- 2 Has as its primary purpose to enter into contracts with public governmental bodies or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies.

PUBLIC MEETING: Any meeting of a public governmental body subject to Missouri Revised Statutes, Sections 610.010 to 610.030 at which any public business is discussed, decided, or public policy formulated whether such meeting is conducted in person or by means of communication equipment, including but not limited to conference call, video conference, Internet chat, or Internet message board. The term “public meeting” shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of State law but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathering at one location in order to conduct public business.

PUBLIC RECORD: Any record pertaining to or of any public governmental body including any report, survey, memorandum or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by a private contractor under an agreement with the public governmental body or on behalf of the public governmental body. The term “public record” shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described herein shall be retained by the public governmental body in the same manner as any other public record.

PUBLIC VOTE: Any vote cast at any public meeting of any public governmental body, whether conducted in person, by telephone, or any other electronic means.

QUORUM: Three members of the five member board.

SECTION TWO: VOTES, HOW TAKEN

Except as provided in Section Three and as otherwise provided by law, all votes shall be recorded, and if a roll call is taken, as to attribute each “yea” and “nay” vote, or abstinence if not voting, to the name of the individual member of the public governmental body. Any votes taken during a closed meeting shall be taken by roll call. All public meetings shall be open to the public and public votes and public records shall be open to the public for inspection and duplication. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, except for any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the public governmental body, due to an emergency of the public body, with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body

participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

SECTION THREE: CLOSURE TO THE PUBLIC OF CERTAIN MEETINGS, RECORDS, VOTES

Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes to the extent as it relates to the following:

1. Legal actions, causes of action or litigation involving the District or any public governmental body of the District and any confidential or privileged communications between the District and its public governmental bodies or their representatives and their attorneys. However, any vote relating to litigation involving the District or its public governmental bodies shall be made public upon final disposition of the matter voted on or signing of a settlement agreement unless prior to final disposition, the settlement agreement is ordered closed by a Court after a written finding of the adverse impact to a Plaintiff or Plaintiffs to the action clearly outweighs the public policy considerations of Section 610.011 RSMO, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record;
2. Leasing, purchase, or sale of real estate by the District or its public governmental bodies where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes, vote or public record approving a contract relating to the leasing, purchase or sale of real estate by the District or its public governmental bodies shall be made public upon execution of the lease, purchase or sale of the real estate;
3. Hiring, firing, disciplining, or promoting an employee of the District or its public governmental bodies when personal information is discussed or recorded; However, any vote on a final decision, when taken by the District or its public governmental bodies, to hire, fire, promote or discipline an employee of the District or its public governmental bodies shall be made available to the public within seventy-two (72) hours of the close of the meeting where such action occurs with a record of how each member voted; provided however, that any employee so affected shall be entitled to prompt notice before such decision is made available to the public. As used herein "personal information" means information related to performance or merit of individual employees;
4. Non-judicial mental or physical health proceedings, involving identifiable persons including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment;
5. Preparation, including any discussions or work product, on behalf of the District or its

public governmental bodies or their representatives for negotiations with employee groups;

6. Software codes for electronic data processing and documentation thereof;

7. Specifications for competitive bidding, until either the specifications are officially approved by the District or its public governmental bodies or the specifications are published for bid;

8. Sealed bids and related documents, until the earlier of either when the bids are opened, or all bids are accepted, or all bids are rejected;

9. Individually identifiable personnel records, performance ratings, or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of the District and its public governmental bodies once they are employed as such;

10. Records which are protected from disclosure by law;

11. Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest;

12. Testing and examination materials before the test or examination is given or, if it is to be given again, before so given again;

13. Records relating to municipal hot lines established for the reporting of abuse and wrongdoing;

14. Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this chapter;

15. Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. December 31, 2012, or as set forth in Section 610.021(18) RSMo;

16. Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a non-public entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety;

(a) Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open;

(b) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records;

(c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed;

(d) This exception shall sunset December 31, 2012 or as set forth in Section 610.021(19) RSMo.

17. Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open [except to the extent provided in this section]; and

18. Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.

SECTION FOUR: CLOSED MEETINGS AND RECORDS

All records that may be closed are hereby deemed closed records, unless the governmental body votes to make them public. Before closing a meeting or vote to the public, a majority of a quorum of the governmental body must vote to do so in a public vote. The vote of each member of the governmental body on the question of closing the meeting or vote and the reason for closing the meeting or vote by reference to a specific exception shall be announced at a public meeting and entered into the minutes.

SECTION FIVE: NOTICE OF MEETINGS

- A. The governmental body shall give notice of the time, date and place of a closed meeting and the reason for holding it by reference to the specific exception allowed under the provisions of Section Three. Such notice shall comply with the procedures set forth in Subsection (B) below. No other business may be discussed in a closed meeting which does not directly relate to the specific reason announced to close the meeting to the public.

- B. The governmental body shall give notice of the time, date, place and tentative agenda of each meeting in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, Internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. The notice shall be placed on the appropriate place at the principal offices of the District, or if no such office exists, at the place of meeting shall be held at least twenty-four (24) hours prior to the meeting, exclusive of weekends and holidays. If an emergency makes it impossible to give twenty-four (24) hours notice, the reason must be reflected in the minutes. Notice shall also be given to any representative of the news media who requests notice of a particular meeting concurrent with notice being made available to members of the public governmental body.

SECTION SIX: PLACE OF MEETING

Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. When it is necessary to hold a meeting at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.

SECTION SEVEN: RECORDING OF MEETINGS

A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of section Three shall be permitted without permission of the public body.

SECTION EIGHT: SUBUNIT AND COMMITTEE MEETINGS

A formally constituted subunit of a parent governmental body may conduct a meeting without notice during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

SECTION NINE: SPECIALIZED NOTICES

If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this chapter.

SECTION TEN: CUSTODIAN APPOINTED

The Board Secretary is hereby appointed as the custodian of records and is to be responsible for the maintenance of all records of the District and all records of the District's public governmental bodies. The custodian is authorized to appoint assistant custodians to aid in the performance of the custodian's duties, as established by State law, District policies which govern access to, and maintenance of, public records, meetings or votes. If a request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third (3rd) business day following the date that the request for the statement is received.

SECTION ELEVEN: MINUTES

A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member of the public governmental body.

SECTION TWELVE: PROVIDING ACCESS TO OR COPIES OF PUBIC RECORDS

Should a person authorized by State law to obtain access to District records request access to or photocopies of public records, there is hereby established a search and photocopying fee not to exceed ten cents (\$.10) per page, for paper not larger than nine by fourteen inches, with an hourly fee for staff time not to exceed the average hourly rate of pay for clerical staff of the public governmental body. Research time required to respond may be charged at actual costs. Fees for providing access to public records maintained on computer facilities, tapes, disks, films, pictures, maps, slides, graphics, illustration, or other media or devices and for paper copies larger than nine by fourteen inches, shall include the actual cost of the copies and staff time not to exceed the average hourly rate of pay for staff required to make the copies. Payment of copying fees may be requested in advance.

Each request to inspect or for a copy of a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records. If records are requested in a certain format, the public governmental body shall provide the records in the requested format, if such format is available. If access to the public records cannot be granted by the end of the third business day, the custodian of records shall give a detailed explanation for the delay and the earliest time and date that the record will be available for inspection or copying.

SECTION THIRTEEN: ELECTRONIC MESSAGES

Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this section shall only apply to messages sent to two or more members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record subject to the exceptions for closure authorized by law.

SECTION FOURTEEN: AMENDMENTS

The Board may from time to time, modify, amend or alter this policy by majority vote.