

RESOLUTION NO. 742

A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF BIRCH BAY WATER & SEWER DISTRICT,
WHATCOM COUNTY, WASHINGTON,
REPEALING RESOLUTION 455, UPDATING PROCEDURES FOR PUBLIC ACCESS TO
DISTRICT RECORDS CONSISTENT WITH STATE LAW.

WHEREAS, the Board of Commissioners (“Board”) of the Birch Bay Water & Sewer District (“District”) is responsible for policy; and

WHEREAS, RCW 42.56, known as the Public Records Act of the State of Washington, requires local government to follow all laws within the act; and

WHEREAS, the Public Records Act was updated effective July 1, 2006; and

WHEREAS, the District desires to update its policy with regard to records requests that may be made to the District; and

WHEREAS, the District wishes to make available to the public any and all identifiable District records, subject only to law, and to abide by the intent of the Public Records Act; and

WHEREAS, the foregoing recitals and findings are a material part of this Resolution;

NOW, THEREFORE, be it resolved by the Board of Commissioners of Birch Bay Water and Sewer District, Whatcom County, Washington as follows:

Section 1: The complete text of District code Chapter 2.12 shall be amended to read as follows:

Chapter 2.12 - District Records

2.12.010 Policies.

It is the policy of the District to release records in compliance with the Washington Public Records Act, (RCW42.56). In the event of a conflict between any provisions in RCW 42.56 and this Chapter 2.12 of the District code, RCW 42.56 shall be controlling. (Res. 742, 2015)

2.12.020 Definitions.

“Public Record” means any writing which contains information relating to the conduct of government or the performance of any governmental or proprietary function, regardless of physical form or characteristics as the public record includes any form of communication or representation, including but not limited to electronic, email, voice or video recorded, or hard copy paper documents. (Res. 742, 2015)

2.12.030 Public Records available.

All Public Records in the possession of the District are deemed to be available for public inspection and copying pursuant to this chapter, unless otherwise exempt pursuant to the provisions of RCW 42.56. (Res. 742, 2015)

2.12.040 Public Records officer.

- a. Appointment of Public Records Officer – Scope of Authority. The District General Manager shall appoint a Public Records Officer. The District's public records shall be in the charge of the Public Records Officer, who shall be responsible for implementing the District's rules and regulations regarding release of Public Records, coordinating and training the staff of the District in this regard, and generally ensuring compliance by the staff with the public records disclosure requirements of RCW Chapter 42.56 and this chapter of the District code.

- b. Specific Duties of Public Records Officer. The Public Records Officer will:
 - i. Track all requests for Public Records.
 - ii. Follow the procedure 2.12.075 for completing requests.
 - iii. Coordinate review of records.
 - iv. Close the complete, withdrawn or abandoned requests.
 - v. Maintain an exempt record log of denied requests and redactions.
 - vi. Comply with all aspects of RCW 42.56.

(Res. 742,2015)

2.12.050 Hours for records inspection and copying.

Public Records shall be available for inspection during normal District hours. (Res. 742, 2015)

2.12.060 Requests for Public Records.

- a. Public Records may be inspected or copied, or copies of such records may be obtained by members of the public, upon compliance with the procedures set forth in this section, subject to applicable exemptions. The District will not disclose lists of individuals for commercial purposes.

- b. A request to inspect or obtain a copy of any Public Record (“Records Request”) shall include the following information:
 - (i) Dated request including the name and contact information of requester or a completed District Public Records Request form with that information.
 - (ii) Description of Public Records requested adequate to locate the records within the possession of the District.

c. In all cases in which a member of the public is making a request, the Public Records Officer or staff member to whom the request is made shall assist the member of the public in appropriately identifying the Public Record requested.

(Res. 742, 2015)

2.12.070 Copying of Public Records.

No fee shall be charged for the inspection of public records. The District shall charge a fee, as set forth in Chapter 13.01 of this code, for providing copies of public records and for use of the District's copy equipment. This charge is necessary to reimburse the District for its actual costs incident to such copies. For large copying of public records request the District may provide the records in installments.

(Res. 683, § 1(A), 2009; Res. 742, 2015)

2.12.075 Procedure for Response to Request

The District shall respond promptly to a Records Request. Within five (5) business days of receiving a Records Request, the District shall respond in one or more of the following ways:

- a. Notifying the Requester that the documents are available; or
- b. Providing an internet address and link on the District website to the specific records requested; or
- c. Acknowledging the request in writing and providing a reasonable estimate of the time the District will require to respond to the request; or
- d. Seeking clarification from the Requester; or
- e. Denying the Records Request or making redacted Public Records available. (Res. 742, 2015)

2.12.080 Right to exempt and redact records from public inspection.

- a. The District reserves the right to determine that a Public Record requested in accordance with these procedures is exempt from the provisions of RCW 42.56 and deny the Records Request in whole or in part.
- b. In addition, pursuant to RCW 42.56, the District reserves the right to redact portions of Public Records when it makes available or publishes any Public Record in cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by RCW Chapter 42.56 or if the material redacted is otherwise exempt from disclosure.

c. All denials of requests for a Public Record and each redaction of a Public Record made available, must be accompanied by a written statement specifying the reason for the denial or redaction, including a statement of the specific exemption authorizing withholding the record or the redaction, and a brief explanation of how the exemption applies to the record withheld or the redacted information. (Res. 742, 2015)

2.12.090 Review of denials Records Requests and redactions of Public Records.

a. Any person who objects to the denial of a request for a Public Record or the redaction of a Public Record may petition the District for prompt review of such decision by tendering a written request for review to the Public Records Officer or the General Manager of the District. The petition shall specifically refer to the written statement by the Public Records Officer or other staff member which constituted or accompanied the denial.

b. Immediately after receiving a written request for a review of a decision denying production of a Public Record or redacting a portion of a Public Record, the Public Records Officer or other staff member denying the request or redacting the Public Record shall refer the request to the President of the Board of Commissioners ("Board President"). The Board President shall immediately consider the matter and either affirm or reverse such denial or redaction, or refer the matter to review at the next regularly scheduled meeting of the Board of Commissioners. In any case, the requests shall be returned with a final decision within twenty business days following the date of the original denial or redaction.

c. Exhaustion of Administrative Remedy. A person shall not be considered to have exhausted his/her administrative remedies until the Board President has returned the petition with a decision or until the close of the twentieth business day following denial of the Public Record inspection or redaction of a portion of the Public Record, whichever first occurs. (Res. 742, 2015)

2.12.100 Records index.

a. The District has available to all persons a current index which provides identifying information as to all resolutions passed by the Board of Commissioners.

b. The current index prepared by the District shall be available to all persons under the same rules and conditions as are applied to other Public Records available for inspection.

c. The District has not indexed all of the Public Records described in RCW 42.56 on the basis that given the large volume of Public Records in the possession of the District and limited staff resources it would be unduly burdensome to do so; and it would not necessarily assist members of the public in locating requested information. (Res. 742, 2015)

Section 2: If any section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution. The Board of Commissioners hereby declare that it would have passed this code and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases

has been declared invalid or unconstitutional, and if, for any reason, this Resolution should be declared invalid or unconstitutional, then the original Resolution or Resolutions shall be in full force and effect.

Section 3: This Resolution shall become effective upon signing.

ADOPTED by the Board of Commissioners of Birch Bay Water & Sewer District, Whatcom County, Washington, at a regular meeting held the 23rd day of April, 2015.


COMMISSIONER


COMMISSIONER


COMMISSIONER

THIS IS TO CERTIFY that the above is a true and correct copy of Resolution No. 747 of Birch Bay Water & Sewer District, Whatcom County, Washington, adopted at the regular meeting of the Board of Commissioners on April 23, 2015.


SECRETARY