

**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT
RESOLUTION NO. 10-0114-01**

**RESOLUTION AMENDING POLICY ESTABLISHING RULES OF PROCEDURE AND RECOVERY
OF COSTS FOR INSPECTION AND COPYING OF PUBLIC INFORMATION**

THE STATE OF TEXAS §
COUNTY OF WILLIAMSON §

WHEREAS, Brushy Creek Municipal Utility District (the "District") is a duly created and existing municipal utility district created and operating under Chapters 49 and 54 of the Texas Water Code, as amended;

WHEREAS, Section 552.230 of the Texas Public Information Act provides that a governmental body may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay;

WHEREAS, pursuant to the authorization set forth in Section 552.230 of the Texas Public Information Act, the Board of Directors of the District previously adopted a policy establishing reasonable rules of procedure for the inspection and copying of public information in an efficient, safe and timely manner, and has amended such policy from time to time;

WHEREAS, certain members of the public, while inspecting public information made available by the District, have threatened and verbally abused District staff members, and otherwise disrupted the operations of the District;

WHEREAS, the Board of Directors desires to amend its Policy Establishing Rules of Procedure for Inspection and Copying of Public Information so as to protect the District staff and operations from disruptive and abusive conduct, but to ensure the continued right of the public to all public information.

NOW THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT THAT:

1. The facts and recitations found in the preamble of this Resolution are hereby found and declared to be true and correct, and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.
2. The Board of Directors of the District hereby adopts that certain Amended Policy Establishing Rules of Procedure for Inspection and Copying of Public Information in the form attached hereto.
3. The General Manager and staff of the District are hereby directed to implement the attached Amended Policy immediately upon adoption of this Resolution by the Board of Directors.

PASSED AND APPROVED this the 14th day of January, 2010.



President, Board of Directors

ATTEST:



Secretary Board of Directors

BRUSHY CREEK MUNICIPAL UTILITY DISTRICT

AMENDED POLICY ESTABLISHING RULES OF PROCEDURE AND RECOVERY OF COSTS FOR INSPECTION AND COPYING OF PUBLIC INFORMATION

1. Purpose; Findings; Application of Policy.
 - a. The purpose of this Policy Establishing Rules of Procedure for Inspection and Copying of Public Information is to set forth reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay. The purpose of this Policy is also to establish reasonable time limits that personnel of the District are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering the District's costs attributable to that personnel time, all in accordance with Section 552.275 of the Texas Government Code.
 - b. The terms and provisions of this Policy shall apply to all requests for inspection and copying of public information received by the District. For purposes of this Policy, "public information" refers to information collected, assembled, or maintained by the District or for the District, if it owns or has a right of access to the information.
2. Legal Construction of Policy; Amendments.
 - a. This Policy shall be construed and applied in a manner that is consistent with the provisions of the Texas Public Information Act.
 - b. This Policy may be amended and supplemented from time to time by the District's Board of Directors and except as otherwise specified by the Board of Directors, any such amendment or supplement shall become effective immediately upon adoption.
3. Legal Authority.

This Policy is being adopted pursuant to the authority set forth in Sections 552.230, 552.275, and other applicable sections of the Texas Public Information Act, and other general laws of the State of Texas.
4. Requests for Information.
 - a. All requests for information must be in writing.
 - b. Requests received by the office on a non-District form may be transcribed onto a District Open Record Request form. District assigned tracking numbers will be used to process all requests.
 - c. Charges incurred in responding to a request for information shall be made on a "per request" basis in accordance with the Public Information Act.

- d. All requests for information sent by electronic mail or by facsimile must be sent to the District's Public Information Officer at the following addresses:
 - (i) By electronic mail- publicinformation@bcmud.org
 - (ii) By Facsimile- (512) 255-0332.

5. Response Time

- a. The interests of one person requesting public information must be balanced with the interests of all members of the public who rely on the functions of the District. As a result, it is the policy of the District to generally respond to all requests for public information as promptly as reasonably possible, without delay, and without unreasonable interference to the District's immediate business.
- b. The determination of what constitutes a reasonable period of time to respond to a request for information will be based on the facts and circumstances surrounding each request for information. In large part, the response period will be based on the nature of the request. A request for voluminous information which requires an extensive search for responsive information will likely require more time than specific requests for information.
- c. If the District cannot produce public information within ten business days of receipt of the request because of the voluminous nature of the request or otherwise, then the District shall provide notice to the requestor specifying the date and hour within a reasonable time when the information will be available. The time period will be based on surrounding circumstances, largely a function of the scope of the request, whether the request will require extensive staff time, and the amount of information that is responsive thereto.
- d. If the requested information is not available because it is in immediate active use or storage, then the District shall provide notice to the requestor specifying the date and hour within a reasonable time when the information will be available.
- e. Public information will be made available for inspection or copying during normal business hours. Information will be made available in accordance with the time frames set forth in the Public Information Act or as may be specified by the Attorney General as follows
 - (i) Documents will be available for 10 business days;
 - (ii) The requestor may file a written request for an additional 10 business days during the initial period; and
 - (iii) The requestor may file a written request for an additional 10 business days during the first extension.
 - (iv) The District may interrupt a person's time for examination of information if the information is needed for use by the District. The period of interruption is not

considered to be a part of the time during which the person may examine the information.

6. Limitation on Response Time.

- a. In accordance with Section 552.275 of the Texas Government Code, the Board of Directors hereby establishes a time limit equal to 36 hours on the amount of time that personnel of the District are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering the District's costs attributable to that personnel time. This time limit shall apply to each 12-month period that corresponds to the District's fiscal year, commencing as of the date of adoption of this Policy.
- b. In accordance with Section 552.275 of the Texas Government Code, each time the District complies with a request for public information, the District shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable 12-month period. The amount of time spent preparing the written statement will not be included in the amount of time included in the statement provided to the requestor.
- c. The time spent complying with a request, and the cumulative time spent responding to requests from a requestor during each fiscal year shall be established in accordance with the provisions of Section 552.275 of the Texas Government Code, and any rules promulgated by the Attorney General in connection therewith.
- d. If in connection with a request for public information, the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the 36-hour limit established by the District under this Policy, the District shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The written estimate must be provided to the requestor on or before the 10th day after the date on which the public information is requested. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established in accordance with the applicable rules prescribed by the Attorney General of the State of Texas.
- e. For purposes of calculating the amount of time spent complying with an individual's public information requests, the District shall not include time spent on the following:
 - (i) Determining the meaning and/or scope of the requests;
 - (ii) Requesting clarification from the requestor;
 - (iii) Comparing records gathered from different sources;
 - (iv) Determining which exceptions to disclosure, if any, may apply to the responsive

- information;
- (v) Preparing the information and/or correspondence required in connection with submitting information to the Attorney General for an exception determination;
 - (vi) Reordering, reorganizing, or in any other way bringing the information into compliance with well established and generally accepted information management practices; or
 - (vii) Providing instructions to, or learning by, employees or agents of the District of new practices, rules, and/or procedures, including the management of electronic records.
- f. If the District determines that additional time is required to prepare the written estimate under Subsection (d) above, it may provide the requestor with a written statement of that determination. Under such circumstances, the District's staff will provide the written statement under subsection (d) above as soon as practicable, but on or before the 10th day after the date the District provides the statement under this subsection.
- g. After the District provides a requestor with the written statement under Subsection (d) above, the District will not produce public information for inspection or duplication or provide copies of public information in response to the requestor's request unless on or before the 10th day after the date the District provides the written statement, the requestor submits a statement in writing to the District in which the requestor commits to pay the lesser of the following:
- (i) the actual costs incurred in complying with the requestor's request, including the cost of materials and personnel time and overhead, as determined by the rules of the Attorney General; or
 - (ii) the amount stated in the written statement provided under Subsection (d).
- h. If the requestor fails or refuses to submit the written statement under Subsection (d), the requestor is considered to have withdrawn the requestor's pending request for public information.
- i. The limitation on response time and recovery of cost provisions set forth in this section do not apply if the requestor:
- (i) is a representative of a radio or television station that holds a license issued by the Federal Communications Commission; or
 - (ii) is a representative of a newspaper that is qualified to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news;

- (iii) is an elected official of the United States, this state, or a political subdivision of this state; or
- (iv) is a representative of a publicly funded legal services organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

7. Uniform Treatment of Requests for Information

Except as specifically authorized by law, all requests for public information shall be treated uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media.

8. Comfort and Facility

Reasonable comfort and facility shall be provided to each requestor for the full exercise of the rights granted to a requestor for the inspection and copying of public information under the Public Information in accordance with the procedures set forth in this Policy.

9. Permissible Inquiries

In responding to a request for public information and except as otherwise set forth herein for purposes of clarifying or narrowing the scope of a request, no representative of the District may make an inquiry of a requestor except to establish proper identification.

10. Requests for Clarification

- a. If the information set forth in a request for public information is unclear, a representative of the District may ask the request to clarify the request. In requesting clarification, the District's representative shall not inquire as to the purpose for which the requested information will be used.
- b. A request applies only to information in existence at the time of the request. The District is not required to prepare information in response to a request or notify a requestor if the requested information comes into existence after the request has been made.
- c. The District is not required to compile or extract information if the information can be made available by giving the requestor access to the records themselves.

11. Broad Requests for Information

As noted above, it is the District's policy to make available public information as promptly as possible. Large requests for information that require extensive research or that are voluminous in nature will necessarily require a longer period of time to respond. In the interests of providing information as promptly as possible, therefore, the Districts' representative may discuss with the

requestor how the scope of a request that involves a large amount of information might be narrowed. The representative shall not inquire into the purpose for which the information will be used.

12. Information Excepted from Disclosure

- a. All public information that is not excepted from disclosure under the Public Information Act must be disclosed in response to a request for information in accordance with this Policy and the Public Information Act.
- b. Certain information is excepted from public disclosure under the Public Information Act. By law, certain information may not be disclosed to the public. In other cases, the withholding of information is discretionary.
- c. In the event that a District representative believes that a request for information includes information that is excepted from disclosure under the Public Information Act, then the District shall notify the District's legal counsel immediately for a determination as to whether the information is excepted from disclosure, and whether the exception is mandatory or discretionary. A request for determination must be filed with the Attorney General of the State of Texas within ten (10) business days of receipt of any request for information that must be withheld from disclosure under the Public Information Act, or that the District's staff desires to withhold in the event of a discretionary exception from disclosure.

13. Inspection Procedures

- a. A requestor is not authorized to remove, destroy, damage or alter an original copy of a public record. To protect public information, the following procedures shall apply to all requests for inspection of public records:
 - (i) No backpacks, briefcases, folders, writing tablets or any personal items excepting medical apparatus may be brought to the area where the documents are to be inspected. Writing materials will be made available to the requestor by the District and must be returned to District staff prior to leaving the inspection area.
 - (ii) Inspection of public information by the public may be videotaped.
 - (iii) Documents in a bound form (3-ring binders, archival-type folders, etc.) may not be removed from the binding by the requestor during an inspection. Loose documents in folders must be kept in the order and original condition provided to the requestor.
 - (iv) A request for copies resulting from an inspection will be fulfilled after completion of the inspection. District staff will document the request for copies upon completion of the requestor's inspection. Requests for copies resulting from an inspection will be made available to the requestor within 5 business days, provided the requestor pays all applicable fees that may be related thereto.

14. Disruptive, Threatening, or Abusive Behavior

- a. Notwithstanding any other provision of this Policy, in the event that the District's Public Information Officer determines that any requestor has verbally abused or threatened District staff, or otherwise unreasonably disrupted the safe and efficient administration of the District's operations, then the Public Information Officer is hereby authorized to suspend or terminate the requestor's right of inspection of public information in the District's offices, and/or may institute reasonable procedures or controls to mitigate the risk of additional harassment/abuse/disruption.
- b. The Public Information Officer shall ensure that the requestor has a continuing right of access to public information during any suspension/termination period in accordance with the Public Information Act as follows:
 - (i) In the event that the District receives any additional requests for inspection of information from the requestor during such period of suspension/termination, then the District shall identify and gather all responsive information in a timely manner in accordance with this Policy and the Public Information Act;
 - (ii) The District shall make electronic or paper copies of all responsive information at its sole cost and expense;
 - (iii) The District shall timely mail or otherwise deliver or transmit all such responsive information to the requestor at the District's sole cost and expense; and
 - (iv) The District shall maintain delivery receipts or other evidence to demonstrate that it timely delivered or furnished the information to the requestor.
- c. Any additional time incurred by District personnel in furnishing information to a requestor under this Section during a period in which the requestor's inspection rights have been suspended or terminated shall not be included in the cumulative amount of time spent by District for purposes of Section 6 of this Policy, if such time would not have been incurred in the event the Public Information Officer had not suspended or terminated the rights of inspection for such requestor.
- d. Except as provided above, this Section shall not alter or impact the District's right to seek payment of costs from the requestor when authorized under the Public Information Act, including payment of costs described in Section 6 of this Policy.
- e. The Public Information Officer may terminate a suspension period, or reinvoke inspection privileges for a requestor, at such time as may be determined in the officer's discretion. Upon making any such determination, the Public Information Officer shall notify District staff members, and the requestor, accordingly.

15. Recordkeeping

- a. The District's staff shall maintain records regarding the amount of time spent by personnel

of the District producing public information for inspection or duplication by a requestor.

- b. In the event of redundant or repetitious requests for public information, this document shall be used at a later date to certify to a requestor that information was previously furnished or made available. In such event, the District's staff shall also certify on the form that no subsequent additions, deletions or corrections have been made to the information.

16. Costs and Charges

- a. District staff shall recover all costs incurred by the District in responding to a request for information to the extent provided by applicable law; provided, however, the Public Investment Officer of the District or its representative may provide public information without charge or at a reduced charge when such waiver or reduction is determined to be in the public interest because providing the copy of the information primarily benefits the general public, or because the cost of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge; and
- b. Fees and charges will be assessed in accordance with the terms of the Public Information Act, and the rules of the Attorney General.

17. District Website

The Board of Directors of the District shall from time to time direct the District's Public Information Officer to publish certain categories of public information electronically on the District's website so that such information shall be readily available to the public at no cost.