

<p>DISTRICT COURT  COUNTY OF JEFFERSON, COLORADO  Court Address: 100 Jefferson County Parkway  Golden, Colorado 80401-6002</p> <p>Telephone No: (303) 271-6145</p>	<p>2021 JUN - 4 PM 12:15  DATE FILED: June 4, 2021  CASE NUMBER: 2021CV109  FILED  CLERK OF DISTRICT COURT  JEFFERSON COUNTY, CO</p>
<p><b>Plaintiffs:</b> BRENDA BRONSON, a citizen of the State of Colorado; KATHE ODENWELLER, a citizen of the State of Colorado; and CHRISTOPHER ARLEN, a citizen of the State of Colorado, and RITA BERTOLLI, a citizen of the State of Colorado,</p> <p>v.</p> <p><b>Defendant:</b> GREEN MOUNTAIN WATER AND SANITATION DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado.</p>	<p style="text-align: center;">▲ <b>COURT USE ONLY</b> ▲</p>
<p><b>Attorneys for Plaintiffs:</b>  <i>Pro-se</i></p> <p>Phone Number: (303) 960-4668  E-mail: responsiblewaternow@outlook.com</p>	<p>Case Number: 21CV109  Division: 14 Courtroom:</p>
<p><b>COMPLAINT UNDER COLORADO OPEN MEETINGS LAW</b></p>	

COMES NOW, Plaintiffs Brenda Bronson, Kathe Odenweller, Christopher Arlen, and Rita Bertolli, acting *pro se*, for their Complaint in this action under the Colorado Open Meetings Law, Section 24-6-401 *et seq.* C.R.S., against Defendant Green Mountain Water and Sanitation District (“District”), acting through its duly elected Board of Directors (“Board”), state and allege the following:

**INTRODUCTION**

1. This complaint seeks to remedy a failure of members of the Board to uphold their oaths of office, to restore integrity in the performance of their duties as Colorado government officials, and to promote the rules of the State of Colorado under the Colorado Sunshine Law (Title 24, Article 6) which uphold that the creation of public policy is public business that may not be conducted in secret.

2. Members of the Board have engaged in a pattern of conducting improper, private discussions of public business on several occasions, adopting policy decisions and taking positions on matters of public concern behind closed-doors, violating the requirements for convening executive sessions, violating the limitations on what can be discussed in executive session, and failing to deliver full, fair and timely notice to the public of their private discussions of public matters.

3. Specifically, our case seeks declaratory and injunctive relief to enjoin the Board, acting through its majority members, **Directors Alex Plotkin** ("Plotkin"), **Karen Morgan** ("Morgan") and **Jeffrey Baker** ("Baker"), from carrying out discussions and making decisions privately in violation of **C.R.S. Section 24-6-402**. This complaint addresses the Board's abuse of Open Meetings Law on several specific occasions over the past year, including engaging in closed-door decision-making about the District's corporate governance documents (the District's By-Laws), engaging in closed-door debate about a "personnel matter" that involved a non-employee of the District and using the exemption to deliberate another topic outside of public view, engaging in closed-door decision-making about the issuance of a Request for Proposal ("RFP") for the hiring of an attorney to represent the District, agreeing upon individual legal counsel candidates to be hired for the District out of the public view, and making decisions about the hiring of an attorney in secret without full, fair and timely notice to the public.

4. In addition, our case seeks to confirm the rule of law, that the pattern of these Directors conducting improper private meetings of public business is a violation of Colorado Open Meetings Law.

### **JURISDICTION, VENUE AND PARTIES**

5. This Court has jurisdiction over the claims asserted herein under Article VI, section 9(1) of the Colorado Constitution and under C.R.S. Section 24-6-402(9)(b) of the Colorado Open Meetings Law.

6. The venue for this civil action is proper in this Court, under Rules 98(b)(2) and (c)(1) of the Colorado Rules of Civil Procedure.

7. Plaintiff Brenda Bronson is, a citizen of the State of Colorado under C.R.S. Section 24-6-402(9)(a), and Green Mountain Water and Sanitation District elector, and as such has standing to bring a claim for declaratory relief and injunctive relief under the Colorado Open Meetings Law.

8. Plaintiff Kathe Odenweller, is, a citizen of the State of Colorado under C.R.S. Section 24-6-402(9)(a), and Green Mountain Water and Sanitation District elector, and as such has standing to bring a claim for declaratory relief and injunctive relief under the Colorado Open Meetings Law.

9. Plaintiff Christopher Arlen, is, a citizen of the State of Colorado under C.R.S. Section 24-6-402(9)(a), and Green Mountain Water and Sanitation District elector, and as such has standing to bring a claim for declaratory relief and injunctive relief under the Colorado Open Meetings Law.

10. Plaintiff Rita Bertolli, is, a citizen of the State of Colorado under C.R.S. Section 24-6-402(9)(a), and Green Mountain Water and Sanitation District elector, and as such has standing to bring a claim for declaratory relief and injunctive relief under the Colorado Open Meetings Law.

11. The Green Mountain Water and Sanitation District is a quasi-municipal corporation governed by the Colorado Special District Act, C.R.S. Title 32. The Board is a duly formed public body under the laws of the State of Colorado, exercising political control over the District, a political subdivision of the State. The Board is named in its official capacity, pursuant to its obligations under the Colorado Open Meetings Law.

### **LEGAL PROVISIONS OF THE COLORADO OPEN MEETINGS LAW**

12. This case is controlled by the Colorado Open Meetings Law, C.R.S. Title 24, Article 6, Part 4.

13. The Colorado Open Meetings Law, originally enacted by an initiative of the People of Colorado in the 1970s, states that public business “may not be conducted in secret”:

“It is declared to be a matter of statewide concern and the policy of this state that the formation of public policy is public business and may not be conducted in secret.”

—*C.R.S. Section 24-6-401., Declaration of Policy*

14. The “underlying intent” of the Colorado Open Meetings Law is to ensure that the public is not “deprived of the discussions, the motivations, the policy arguments and other considerations which lead to the discretion exercised by the [public body].” *Van Alstyne v. Housing Authority*, 985 P. 2d 97, 101 (Colo. App. 1998).

15. Under the Colorado Open Meetings Law, the Board is statutorily defined as a “local public body,” because the Board is the governing body of a political subdivision of the State of Colorado, and is therefore subject to all requirements of the Open Meetings Law applicable to local public bodies. “Meeting” means any kind of gathering, convened to discuss public business, in person, by telephone, electronically, or by other means of communication. C.R.S. Section 24-6-402(1)(b). For a local public body, a public meeting consists of a meeting of a quorum or three or more members, whichever is fewer, at which any public business is discussed. C.R.S. Section 24-6-402(2)(b).

16. The Colorado Court of Appeals has declared that the purpose of the Colorado Open Meetings Law “is to afford the public access to broad range meetings at which public business is considered; to give citizens an expanded opportunity to become fully informed on issues of public importance, and to allow citizens to participate in the legislative decision-making process that affects their personal interests.” *Walsenburg Sand & Gravel Co. v. City Council*, 160 P. 3d 297, 299 (Colo. App. 2007).

17. Under the Colorado Open Meetings Law, all exemptions from the default rule that a public body's meetings must be open to the public must be narrowly construed, ensuring as much public access as possible. *Gumina v. City of Sterling*, 119 P.3d 527, 530 (Colo. App. 2004) and more recently, *Bjornsen v. Bd. of Cty. Comm'rs Boulder County*, 2019 COA 59 \*21. This is because, "As a rule, [the Open Meetings Law] should be interpreted most favorably to protect the ultimate beneficiary, the public." *Cole v. State*, 673 P.2d 345, 349 (Colo. 1983)
18. Under the Colorado Open Meetings Law, a public body may enter and participate in an "executive session," (a meeting from which the public is excluded) *only* if the body strictly complies with the requirements for convening and conducting such closed meeting, which include limiting discussion during such meeting to the narrow topics permitted by the statute and taking no action or adoption of any position during the closed meeting. C.R.S. Section 24-6-402(4).
19. Under the Colorado Open Meetings Law, a public body *may not* adopt "any proposed policy, position, resolution, rule, regulation or formal action" during a closed meeting, other than the approval or amendment of minutes of an earlier executive session. C.R.S. Section 24-6-402(4).
20. The Colorado Supreme Court has maintained the ban on informal decision-making of a public body at closed-door meetings, even when the informal closed-door decision is subsequently approved by a proper public vote. *Van Alstynev. Housing Authority of City of Pueblo*, 985 P. 2d 97, 101 (Colo. App. 1999), and see *Bagby v. School District No. 1*, 528 P. 2d 1299 (Colo. 1974).
21. The Open Meetings Law's exemption for "attorney conferences" by a local public body allows for closed-door discussions only "for purposes of receiving legal advice on specific legal questions." C.R.S. Section 24-6-402(4)(b). This exception may not be used to prevent public access to deliberations on matters that do not *narrowly constitute the receipt of legal advice on a specific legal question*. A local public body may not use the "mere presence or participation of an attorney" at a closed-door meeting as the basis for excluding the public from observing the discussion. C.R.S. Section 24-6-402(4)(b).
22. Under the Colorado Open Meetings Law, the burden lies on the public body that conducted the executive session, or engaged in closed-door meetings, to demonstrate that the closed meeting was, in fact, proper or did not happen.
23. Under the Colorado Open Meetings Law, a public body may not deny public access to the record of a executive session that did not properly comply with procedural requirements; these audio recordings are public records and subject to public access.
24. Under the Colorado Open Meetings Law, actions that are taken improperly in closed-door meetings, including actions taken at informal meetings outside of Board meetings, without public notice, are void and of no legal effect. C.R.S. Section 24-6-402(8).



## FACTUAL BACKGROUND AND OPEN MEETINGS LAW VIOLATIONS

25. This complaint alleges that Directors Plotkin, Morgan, and Baker have regularly engaged in informal, improper closed-door meetings at which they have, as a quorum, agreed upon and taken positions on matters of District business, including discussing the District's corporate governance documents, organizing the hiring of an attorney to represent the District, and planning the conduct of the District's business and legal affairs with a non-District attorney.
26. In the beginning of 2021, at a Regular Board Meeting held on January 12, 2021, Director Plotkin motioned to adopt a new set of District By-Laws, in an alleged effort to amend the corporate governance documents of the District. Director Plotkin's motion to move to a vote was then seconded by Director Morgan. Such motion was made before any discussion had taken place to support the decision by such Board members on the issue of changing the District's By-Laws.
27. The Agenda of the Regular Board Meeting held on January 12, 2021, did not notify the public that the Board was planning to vote to adopt new corporate governance documents of the District at such meeting.
28. Upon information and belief, Directors Plotkin, Morgan, and Baker engaged in an improper closed-door meeting at which they took the position that they would change the District's By-Laws to serve their personal motives of attempting to remove one of the other Directors from her office position on the Board.
29. A month later, the Agenda posted by the Board prior to the Regular Board Meeting held on February 16, 2021, stated that the Board would have an executive session to discuss "a personnel matter." At no time did the Board identify the particular matter it intended to discuss beyond merely mentioning the category of the topic as a "personnel matter."
30. On information and belief, at the Regular Board Meeting on February 16, 2021, the Board convened such executive session to discuss persons who were *not* employees of the District.
31. Shortly after the executive session on February 16, 2021, the Board approved a Resolution entitled "A Statement Summarizing Expected Levels of Decorum from All Board Members and Contractual Representatives of the District" with explicit guidance to non-employees of the District.
32. On information and belief, at the executive session held February 16, 2021, the Board additionally and improperly discussed general District business, and not only a personnel matter, including discussion of changes to the District's By-Laws.
33. On information and belief, in February of 2021, at another invalid meeting held behind closed doors without notice, Directors Plotkin, Morgan, and Baker signed an engagement letter attempting to hire an attorney to represent the District. On March 9, 2021 at the Special Board

Meeting, they attempted to ratify and “rubber stamp” their closed-door decision to hire this attorney but were inhibited by public comment outcry.

34. Upon information and belief, throughout 2020 and early 2021, Directors Plotkin, Morgan and Baker regularly convened behind closed doors to discuss the District’s business and legal affairs with this same non-District attorney. Based on such discussions, these Directors allegedly agreed upon important District business, including the decision to hire additional legal counsel to represent the District.

35. On April 27, 2021, the Board held a Special Meeting at which the Board convened an executive session. The decision to call the executive session was made by 2/3 vote of the Board, including the votes of Directors Plotkin, Morgan and Baker, joined by Director Rhonda Peters.

36. The Agenda for the April 27, 2021, Special Board Meeting did not contain notice of the executive session which was held on April 27, 2021.

37. None of the discussions that occurred in the executive session held on April 27, 2021, were electronically recorded. On information and belief, the topic discussed in the executive session included the hiring of a new attorney to represent the District.

38. On April 28, 2021 a day after the executive session held at the April 27, 2021 Special Board Meeting, the District received by email a signed engagement letter from a new law firm. No public Board discussion or decisions had occurred regarding soliciting engagement letters from law firms.

39. The hiring of a new attorney to represent the District is a matter of grave and intense public interest as the District is currently entangled in litigation and threatened with damages exceeding \$140 million. The District is currently being represented by qualified general counsel who was retained in 2019 and has managed the District’s litigation and general business successfully to date. The Board’s improper action of deliberating candidates with no experience in District legal issues, behind closed doors, without proper public vetting, creates the appearance of impropriety, destroys public trust in the government agency, and throws into question any decisions the new attorney will make for the District.

40. At the May 25, 2021 Special Board Meeting, Director Plotkin moved to vote to advertise a Request for Proposals (RFP) to hire an attorney to represent the District. Director Baker seconded the motion. Upon information and belief, prior to this Special Meeting, Directors Plotkin, Morgan, and Baker had already decided at an invalid closed-door meeting to advertise the RFP to allegedly seek an applicant to be hired as an attorney for the District. Upon information and belief, Directors Plotkin, Morgan, and Baker had also already decided on the content of the RFP prior to a public Board discussion on the matter at the May 25, 2021 Board meeting.

41. Directors Plotkin, Morgan and Baker concurred at the May 25, 2021 Special Board Meeting that the RFP be advertised for a mere “7 to 10 days” on the District’s website. When the Request for Proposal was posted to the website, an “Expected Selection Date” was

concurrently posted to coincide with the very next convening of the Board, despite the RFP itself claiming that qualified candidates would receive an interview process prior to selection.

42. Upon information and belief, prior to the Regular Board Meeting to be held on June 8, 2021, Directors Plotkin, Morgan, and Baker had already made the decision, at a closed-door meeting in violation of the Colorado Open Meetings Law, to hire a specific attorney prior to the Request for Proposal ever being advertised. Therefore, the advertising of the RFP was merely a charade by Directors Plotkin, Morgan and Baker to cover up the fact they had already improperly decided, behind closed doors, to hire a specific attorney without going through the District's process for advertising, interviewing and otherwise properly vetting candidates to serve as the District's attorney.

43. Upon information and belief, the specific attorney to be hired by Directors Plotkin, Morgan, and Baker was pre-selected, allegedly a friend of a staff member, and not necessarily someone who is qualified to represent the District, creating the appearance of impropriety.

44. The Agenda for the Special Board Meeting held on May 4, 2021 indicated that the purpose of hiring a new attorney, would be for, among other items, "conduct of regular meetings under the provisions of Title 32, [and] non-litigation related CORA review," two items directly relevant to the public access of Board business. At this same Board Meeting, Director Morgan motioned to remove public comment from Agenda items, despite the duly posted the Agenda indicating otherwise.

45. Since January of 2021, the Board has been engaging in the practice of agreeing and planning in private the public business of the District, thus violating Open Meetings Law.

46. On April 28, 2021 Plaintiffs filed petition with the District Court to begin a recall effort on Director's Plotkin, Morgan, and Baker. On May 10, 2021, Jefferson County District Court appointed a Designated Election Official for such recall efforts. On May 25, 2021 circulated petitions were submitted to the District and Designated Election Official with valid signatures in excess of the requisite number required for a recall election.

### **1<sup>ST</sup> OPEN MEETINGS LAW VIOLATION AND CLAIM FOR RELIEF**

#### **Failure to properly announce and record an executive session in violation of C.R.S. Section 24-6-402(2)(c), 402(2)(d.5), 402(4) and 402(9)**

47. On April 27, 2021, the Board held a Special Meeting at which the Board convened an executive session.

48. The Agenda for the April 27, 2021, Special Meeting did not contain notice of the executive session which was held on April 27, 2021, required by C.R.S. Section 24-6-402(2)(c). Because the executive session constituted a meeting at which a majority or quorum of the District was in attendance, and was expected to be in attendance, **the Board failed to give full,**

**fair, and timely notice to the public of the executive session in violation of C.R.S. Section 24-6-402(2)(c).**

49. On information and belief, **the topic for discussion in the executive session held on April 27, 2021, was not properly announced, as the discussions expanded beyond mere legal advice, and therefore such executive session was held in violation of C.R.S. Section 24-6-402(4).** Upon information and belief, the topic discussed in the executive session included the hiring of a new attorney to represent the District which is not a proper topic for discussion at an executive session and therefore a violation of C.R.S. Section 24-6-402(4).

50. **None of the improper discussions that occurred in the executive session held on April 27, 2021, were electronically recorded by the District, in violation of C.R.S. Section 24-6-402(2)(d.5)(II)(A).**

51. The hiring of a new attorney to represent the District is a matter of grave and intense public interest due to the District being currently at risk of litigation disputes over \$140 million.

52. Plaintiffs have suffered injury through the acts and omissions of the Board failing to give full, fair and timely notice of the April 27, 2021 executive session, failure to properly announce the true nature of the executive session, discussion of topics prohibited by law in an executive session, and failure to then keep an electronic recording of such discussions for review. Plaintiffs have suffered irreparable harm as a result of the Board's actions because they cannot reasonably exercise their rights to freedom of speech, petition, or association, or to their electoral rights, without full and timely notice of Board meetings or without knowledge of what is being intentionally discussed in private by the Board that affects their interests, as is otherwise guaranteed to them by the Colorado Open Meetings Law. C.R.S. Section 24-6-402(9).

## **2<sup>ND</sup> OPEN MEETINGS LAW VIOLATION AND CLAIM FOR RELIEF**

**Using a "personnel matter" exemption for an executive session discussing improper topics,  
in violation of  
C.R.S. Section 24-6-402(4)(f)(I) and 402(9)**

53. The Agenda posted by the Board prior to the Regular Board Meeting held on February 16, 2021, stated that the Board would be having an executive session to discuss "a personnel matter." At no time did the Board identify the particular matter it intended to discuss beyond mentioning the category of topic as a "personnel matter" as required under C.R.S. Section 24-6-402(4).

54. On information and belief, Plaintiffs contend that it was possible for the Board to identify more particularly the specific matter they were planning to discuss behind closed doors in the executive session held on February 16, 2021, without compromising the purpose for which the executive session was being called.

55. On information and belief, **at the Regular Meeting of the Board held on February 16, 2021, the Board convened an executive session to discuss persons who are not employees of the District, in violation of C.R.S. Section 24-6-402(4)(f)(I).**

56. On information and belief, **at the executive session held on February 16, 2021, the Board improperly discussed general District business, and not only a personnel matter, in violation of C.R.S. Section 24-6-402(4).**

57. The tape recording of the executive session held February 16, 2021 was subsequently denied to the Plaintiffs in an Open Records Request.

58. The Plaintiffs have suffered irreparable harm as a result of the Board's behavior because in holding this executive session, the Board denied the public and the Plaintiffs the ability to observe the discussions, motivations, policy arguments and other considerations which took place in a closed meeting. This is a failure to enforce the policy of the State of Colorado assuring that "the formation of public policy is public business and may not be conducted in secret." C.R.S. Section 24-6-401, Declaration of Policy of the Open Meetings Law.

### **3<sup>RD</sup> OPEN MEETINGS LAW VIOLATION AND CLAIM FOR RELIEF**

#### **Discussing public business, adopting positions and taking formal action without full and timely notice in violation of C.R.S. Section 24-6-402(2)(b), 402(2)(c) and 402(9)**

59. At the Regular Meeting of the Board held on January 12, 2021, Director Plotkin moved to adopt a new set of By-Laws, in an alleged effort to try to change the corporate governance documents of the District. Director Plotkin's motion to move to a vote was seconded by Director Morgan. Such motion was made before any discussion had taken place to support the vote by such Board members on the issue. This cursory treatment of such an important matter indicates that a debate on the issue had previously taken place among a quorum of Board Directors. *Van Alstyne v. Housing Authority of City of Pueblo*, 985 P. 2d 97, 101 (Colo. App. 1999) ("[T]he matters were given only cursory treatment, indicating that a debate on the issues had previously taken place.")

60. Upon information and belief, **Directors Plotkin, Morgan, and Baker had previously discussed changing the District's By-Laws in closed-door meetings without notice to the public in violation of C.R.S. Section 24-6-402(2)** to serve the improper personal motives of Plotkin, Morgan, and Baker who were attempting to remove one of the other Directors from her office position on the Board.

61. Upon information and belief, in or about February 2021, at an invalid meeting, **Directors Plotkin, Morgan, and Baker signed an engagement letter attempting to hire an attorney to represent the District without Board discussion or public notice.** Such formal action of the Board, the signing of a contract to hire an attorney without prior Board discussion at a meeting of



the minds without notice is in violation of C.R.S. Section 24-6-402(2)(b) and 402(2)(c) and is void under C.R.S. Section 24-6-402(8).

62. Upon information and belief, throughout 2020 and early 2021, **Directors Plotkin, Morgan, and Baker regularly organized behind closed doors to discuss the District's business and legal affairs with a non-District attorney.** Based on such discussions, these Directors allegedly took the position that they would hire new legal counsel to represent the District. These positions were taken by Directors Plotkin, Morgan, and Baker without the public having the benefit of their discussions, their motivations, their policy arguments and other considerations which led to the discretion exercised by these Directors in their votes to advertise a Request for Proposal to hire an attorney, and later, in their attempt to hire such attorney.

63. The Plaintiffs have suffered irreparable harm as a result of the Board's actions because they cannot exercise their rights to freedom of speech, petition, or association, and to their electoral rights, without information about the particular matters being privately discussed by the Board, as is otherwise guaranteed by the Colorado Open Meetings Law, and which is being openly violated by this Board's behavior.

#### **4<sup>TH</sup> OPEN MEETINGS LAW VIOLATION AND CLAIM FOR RELIEF**

##### **“Rubber Stamping” invalid decisions made in closed-door meetings without notice in violation of C.R.S. Section 24-6-402(2), 402(8) and 402(9)**

64. Upon information and belief, prior to the Special Board Meeting dated May 25, 2021, Directors Plotkin, Morgan, and Baker had already decided at an invalid meeting to advertise a Request for Proposal (RFP) to allegedly seek an applicant to be hired as new District legal counsel. Upon information and belief, Directors Plotkin, Morgan, and Baker had also already decided on the content of the RFP as well.

65. At the May 25, 2021 Special Board Meeting, Director Plotkin moved to vote to adopt and advertise the RFP to hire an attorney to represent the District. Director Baker seconded the motion. This motion was made before any discussion had taken place to support the decision by such Board members to move to a vote on the issue. Such cursory treatment of an important matter indicates that a debate on this issue had previously taken place. The votes taken concerning the adoption and advertising of the RFP constituted a “rubberstamping” of decisions previously made at an invalid meeting.

66. Upon information and belief, prior to the Regular Meeting to be held on June 8, 2021, Directors Plotkin, Morgan, and Baker had already planned their decision, at a closed-door meeting in violation of the C.R.S. Section 24-6-402, to hire a specific attorney prior to the Request for Proposal ever being advertised. Therefore, this complaint alleges that the advertising of the Request for Proposal was merely a charade by Directors Plotkin, Morgan and Baker to cover up the fact they had already improperly and privately decided to hire a specific attorney without going through a genuine process for advertising, interviewing and properly vetting candidates to serve as the District's attorney. The specific attorney to be hired by Directors

Plotkin, Morgan and Baker, was pre-selected, may not be qualified to represent the District, and will be performing duties for the government agency under an **appearance of impropriety** due to the Board's actions. Such decision to hire the attorney was agreed upon at an invalid meeting in violation of C.R.S. Section 24-6-402(2) and 402(8). **The votes to be taken at the upcoming June 8, 2021, meeting concerning the hiring of an attorney will be "rubberstamping" decisions previously made at invalid meetings in violation of Colorado Open Meetings Law, C.R.S. 24-6-402.**

67. Matters relating to the advertising of an RFP, and the decision to hire an attorney, were discussed in-depth by Board Directors in closed-door deliberations and later "rubber stamped" in a public meeting as evidenced by the cursory treatment of these decisions, indicating debate on these issues had already taken place. The Board members moved to vote to adopt and advertise the Request for Proposal before any discussion had taken place on the content of the RFP by such Board members. Such "rubber stamping" of previously made decisions deprives the public of the discussions, motivations, policy arguments, and other considerations which lead to the discretion exercised by the Board at a public meeting. The intent of the Colorado Open Meetings Law is not met when the public only witnesses the final recorded vote and not the discussions leading up to the decision.

68. A public body's meeting is *not in compliance* with the Colorado Open Meetings Law if held merely to "rubber stamp" previously decided issues. *Bagby v. School District No. 1*, 528 P. 2d 1299 (Colo. 1974). No formal action of a public body is valid unless it is made at a meeting that complies with Colorado Open Meetings Law. C.R.S. Section 24-6-402(8).

69. On information and belief, plaintiffs allege that **Directors Plotkin, Morgan, and Baker intend to continue, without compunction, to hold invalid meetings to agree upon matters of public policy amongst themselves as a quorum in advance of public meetings and outside of public view.**

70. In light of the foregoing concerns, there is a controversy concerning the legality of these decisions made at invalid meetings and behind closed doors under the Colorado Open Meetings Law.

71. The Plaintiffs have suffered irreparable harm as a result of the Board's actions because they cannot intelligently exercise their rights to freedom of speech, petition, or association, or to their electoral rights, without knowing what is being discussed and agreed upon by the Board behind closed doors, as is otherwise guaranteed to them by the Colorado Open Meetings Law, and which has been deprived by the Board's actions.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs Brenda Bronson, Kathe Odenweller, Christopher Arlen, and Rita Bertolli respectfully pray for the following relief and judgment:

A. Declaratory Relief

We ask the Court to enter a declaratory judgment finding that, as a matter of law, the Board of Directors of the Green Mountain Water and Sanitation District, acting through its majority members, including Director Alex Plotkin, Director Karen Morgan, and Director Jeffrey Baker:

- Violated the Colorado Open Meetings Law by convening an executive session at the Special Board Meeting held on April 27, 2021, without announcing on the meeting's Agenda that an executive session would be held, without identifying the particular matters to be discussed, without keeping an electronic recording of such session, and without discussing a topic that is appropriate under the Colorado Open Meetings Law.
- Violated the Colorado Open Meetings Law on February 16, 2021, by citing the executive session exemption for "personnel matters" under C.R.S. Section 24-6-402(4)(f)(I), when it engaged in closed-door discussions of a person who is not an employee of the District and discussed general policy issues including the District's By-Laws, a topic that was neither announced on the Agenda or prior to the executive session nor an appropriate topic for executive session under the Colorado Open Meetings Law.
- Violated Colorado Open Meetings Law by engaging in closed-door meetings to discuss, take positions on, and make decisions on the adoption and advertising of a Request for Proposal to hire a new attorney, and on the hiring and selection of new legal counsel to represent the District, thus rendering the Board's decision to post the Request for Proposal and to hire an attorney for the District pursuant to their private discussions null and void under C.R.S. Section 24-6-402(8).

B. Injunctive Relief

We ask the Court to enter injunctive relief against the Board of Directors of the Green Mountain Water and Sanitation District in their official capacities, specifically Directors Plotkin, Morgan, and Baker:

- Enjoining the Board from carrying out its void decision to hire a new attorney to represent the District until the conclusion of the pending recall on such Directors.
- Enjoining the Board from carrying out its void decision to post the Request for Proposal that was voted on at the May 25, 2021 Regular Board Meeting.
- Directing that prior to entering an executive session, the Board must announce the true nature of the particular matter(s) to be discussed in as much detail as possible without compromising the purposes for which the executive session is being called as required by law.
- Directing that at least 24 hours prior to a Special or Regular Board Meeting, the Board must provide all items to be discussed with specificity on the Agenda including any motions for votes that may be proposed.

- Directing that the tape recordings of the February 16, 2021, April 27, 2021, May 25, 2021 executive sessions be made available to the public.
- Directing that the tape recording be left on during all future executive sessions of this Board.

Respectfully filed with the Court this 4<sup>th</sup> day of June, 2021.

By: Brenda Bronson  
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By: Kathe Odenweller  
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District Court Jefferson County, Colorado Court Address: 100 Jefferson County Parkway Golden, Colorado 80401-6002	
Plaintiff(s): BRENDA L BRONSON et al. v. Defendant(s): GREEN MOUNTAIN WATER AND SANITATION DISTRICT	<b>▲ COURT USE ONLY ▲</b>
Attorney or Party Without Attorney (Name and Address):  <i>Pro-Se</i>  Phone Number: 303-960-4668 E-mail: responsiblewaternow@outlook.com FAX Number: Atty. Reg. #:	Case Number:  21CV109  Division 14 Courtroom
<b>ANSWER TO COMPLAINT UNDER COLORADO OPEN MEETINGS LAW</b>	

The Defendant(s) \_\_\_\_\_ (name), answer(s) the complaint as follows:

1. The amount of damages claimed to be due to the Plaintiff(s) by the complaint in this action is not due and owing for the following reasons:

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**OR**

the Plaintiff(s) is/are not entitled to possession of the property and Defendant(s) is/are entitled to retain possession for the following reasons:

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**OR**

the injunctive relief requested by the Plaintiff(s) should not be allowed for the following reasons:

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2.  (If applicable) the Defendant(s), \_\_\_\_\_, assert(s) the following counterclaim(s) or setoff(s) against the Plaintiff(s)



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3.  (If applicable) the Defendant(s) \_\_\_\_\_, assert(s) the following cross claims(s) against the Plaintiff(s)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The Defendant(s):

Request(s) a trial to the court.

Request(s) a jury trial. By requesting a jury trial, the Defendant(s) understand(s) that a jury fee must be paid unless the fee is waived by the Court.

**WARNING: ALL FEES ARE NON-REFUNDABLE. IN SOME CASES, A REQUEST FOR A JURY TRIAL MAY BE DENIED PURSUANT TO LAW EVEN THOUGH A JURY FEE HAS BEEN PAID.**

**Note: All Defendants filing this answer must sign unless the answer is signed by an attorney.**

\_\_\_\_\_  
Signature of Defendant(s)

\_\_\_\_\_  
Signature of Attorney for Defendant(s) (if applicable)

Address(es) of Defendant(s): \_\_\_\_\_

Phone Number(s) of Defendant(s): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### CERTIFICATE OF SERVICE

I certify that on \_\_\_\_\_ (date) a true and accurate copy of this Answer was served on \_\_\_\_\_ the other party(s) or attorney(s) by:

Hand Delivery  E-filed  Faxed to this number \_\_\_\_\_ or  by placing it in the United States mail, postage pre-paid, and addressed to the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Defendant(s) or Attorney for Defendant(s) Signature