

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

January 8, 2008

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, January 8, 2008, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Ted Schubert	Gayle Jones
Andy Anderson	Dave Hacker
Robert Lovato	

OTHERS PRESENT

Kip Petersen	Ed Meyer
Dian Hardekopf	Len Meyer
Art Sintas	Griff Rainford
Jim Felt	Bryan English
Sara Howard	Todd Laxson
Sandy DeCarolis	Pete Heidebrecht

OTHER GUESTS SIGNING ATTENDANCE LOG

Pastor John Fuller	Bill Beahan
Mary Hernandez	Jan Olson
Jim and Judy Burnside	Chloe Olson
Karl Raymond	Bill McAfee

ITEM 1:

The meeting was called to order by Chairman Ted Schubert at 5:30 p.m.

Ms. Hardekopf called roll call of the Board of Directors. All Board Members were present.

ITEMS 2 AND 3:

Mr. Schubert asked if there were any changes or amendments that needed to be made to the agenda. There were none noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE AGENDA OF JANUARY 8, 2008. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 4:

The Minutes of the Regular Meeting of December 11, 2007, were reviewed. No changes were noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE REGULAR MEETING OF DECEMBER 11, 2007. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 5:

⇒ Public Comments

Mr. Schubert asked for a show of hands from the audience who wished to speak. There were no comments from the public however; a wish for everyone to have a Happy New Year was given.

ITEM 6:

⇒ Legal Report – Mr. Jim Felt

- Mr. Felt wanted to address two items, and the rest of his report would be discussed in Executive Session. Mr. Felt reported on the contract for the Poleson (Gunzelman); one of the requirements of the contract was to request an export permit from the Upper Black Squirrel Water Management District. Application for this permit was made three months ago. At the UBSWMD's most recent Board Meeting, it was stated they were going to adopt a resolution to no longer grant any further exportation of water to any requester and made claim they would deny any applications for the same. Mr. Culichia will ask the Upper Black to set a hearing date, if denied; we will need to appeal to the District Court of El Paso County. Mr. Felt stated this well already has a determination of consumptive use and feels the UBSWMD does not have the legal authority to deny the District's application.
- In regards to the Denver Basin ground water lease case, Mr. Felt advised the Board that the District filed motions; one to limit the objectors to only those under the leased land and the other motion

of determination of law with the Ground Water Commission stating that injury is not an issue; and a subsequent motion is expected and will entail a summary judgment to circumvent a trial. Mr. Felt drew a simplified, but very meaningful, diagram of the Alluvial, Denver, Arapahoe, and Laramie Fox Hills basins explaining the water rights associated to homeowners utilizing their respective water resources. Mr. Burnside raised some concerns regarding the problems Cherokee may cause for 3 of his high capacity wells. He also stated that there is a well drilled in the Denver Basin under the McFarland lease. Mr. Felt stated that he didn't believe any wells were reported to be drilled in the Denver Basin in the discovery documents that Cherokee had received.

ITEM 7:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). ITT/Sanitaire's second pay request has been received. With retainage at 10%, the net amount due the contractor is \$822,150. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 2 TO ITT/SANITAIRE IN THE AMOUNT OF \$822,150. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Velocity Constructors' third change order request has been received. In lieu of the 11 separate level indicators programmed to go into the control building at the recharge facility, a complete remote terminal unit will be installed. This change order reflects a total of \$9,723.25. GMS recommends approval in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE CHANGE ORDER NO. 3 TO VELOCITY CONSTRUCTORS' IN THE AMOUNT OF \$9,723.25. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Velocity Constructor's ninth pay request has been received and is effective through December 26, 2007. With retainage at 5%, the

net amount due the Contractor is \$144,015.19. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 9 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$144,015.19. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- The WWTP Project's design work is still continuing, and GMS is striving for a January submission date on the drawings and specifications to the State Health Department.
- Mr. Meyer advised the Board the District may now proceed to make draws on the \$15 million dollar Revolving Fund Loan. GMS has prepared the first draw for reimbursement back to the District which totals \$2,811,422.48, and is requesting this amount to be approved.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE SUBMITTING REIMBURSEMENT OF REQUISITION #1 BACK TO THE DISTRICT IN THE AMOUNT OF \$2,811,422.48. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Arapahoe Pumping Sales, Inc., has submitted their final pay request in regards to the Golf Course Irrigation Well Project. Taking into account the previous payment and the release of retainage, the net amount due is \$6,959.12. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE THE FINAL PAY REQUEST TO ARAPAHOE PUMPING SALES, INC., IN THE AMOUNT OF \$6,959.12. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Hume Constructors' third pay request has been received. With retaining at 5%, the net amount due the contractor is \$14,464.45. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 3 TO HUME CONSTRUCTORS IN THE AMOUNT OF \$14,464.45. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 8:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen advised the Board he has received conditional verbal approval of the Water Conservation Plan. This has allowed CMD to start making draws from the \$15,000,000.
- Mr. Petersen stated that he would not be present at the February Board of Directors' Meeting as he will be attending a Sustainable Water Resource Conference in Reno, Nevada, at that time.
- At this time, Mr. Petersen introduced to the Board, Mr. Pete Heidebrecht, CMD's new Lead Wastewater Treatment Operator. He leaves a contracted assignment from the Air Force Academy and brings to the District valuable knowledge and experience in wastewater treatment-related issues.

At this time, Mr. Schubert asked for a short break. The meeting recessed at 6:36 p.m.

The regular meeting resumed at 6:45 p.m.

ITEM 9:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands (see attached). Demands for December last year were 1.52 mgd compared to the same time last year of 1.53 mgd. The Pikes Peak Wells are complete, and the Sweetwater Wells will supply the District until next Spring. Calendar year 2007 was the lowest annual water production for the last eight years due to the District's implemented water conservation plan.
- Five water leaks kept the District busy with repairs in December, those being 1144 Atoka Dr., 6785 Seneca Dr., 2080 Poteae Circle, 1196 Hathaway Dr., and another within the vicinity of Omaha Blvd. and Minnetonka Dr.

ITEM 10:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson provided his monthly report to the Board (see attached), stating the month of December enabled the Golf Course to exceed goals for the year. In 2006, the Course was closed a total of 22 days; in 2007, the Course was closed a total of 25 days. The average income per day for December was more than \$325 per day.
- Mr. Laxson itemized the 2007 year-end numbers for the Board.
- A “snow schedule” for the Grill has been developed, and the Grill will be closed on Mondays and Thursdays.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the December maintenance of the Golf Course (see attached). He and his crew oversaw the restoration of the trench line, and coordinated and oversaw the installation of the new power supply and transformer for the pump house. With the help of the District’s employees, the cleaning of the lake supply line to the pump house was completed. This is the time for equipment and fixture maintenance and upkeep.

ITEM 11:

⇒ Old Business

- Ms. Hardekopf wanted to thank Ms. DeCarolis and Ms. Baker for the excellent planning and preparation of the annual Christmas party held the evening of December 21, 2007.

ITEM 12:

⇒ New Business

- Mr. Petersen read, and requested the Board to approve, the attached 08-01, Cherokee Metropolitan District Agenda Posting Resolution, identifying the locations of 6250 Palmer Park Blvd., 1835 Tuskegee Place and 1850 Tuskegee Place as locations to post the monthly Board of Directors’ Meetings.

*****MOTION*****

MR. HACKER MADE A MOTION TO ADOPT 08-01, CHEROKEE METROPOLITAN DISTRICT AGENDA POSTING RESOLUTION. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Petersen addressed the Board and read the attached 08-02, Election Resolution, summarizing the application process and election requirements leading up to the election to take place on May 6, 2008. He requested the Board to make a motion for adoption of this resolution.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE AND ADOPT 08-02 ELECTION RESOLUTION AS READ. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Ms. DeCarolis advised the Board she will be mailing out the December financial packets in the very near future.

ITEM 13:

⇒ Executive Session: CRS 24-6-402(4)(b)

*****MOTION*****

MR. HACKER MADE A MOTION TO ENTER INTO AN EXECUTIVE SESSION CITING 24-6-402(4)(b) LEGAL CONSULTATION. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Executive Session was entered into at 7:05 p.m.

*****MOTION*****

MR. HACKER MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RETURN THE MEETING TO THE OPEN SESSION OF THE REGULAR MEETING. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

The Regular Session began at 8:20 p.m.

Mr. Petersen announced that the Goss contract has expired but that negotiations will continue to obtain the water rights in the future.

At this time, the Board authorized Mr. Felt and staff to put together a contract to purchase the Schubert water along with other waters that may be available. Mr. Petersen noted that Mr. Schubert was not part of nor will be involved in any decision and will abstain from any vote related to the contract and purchase of the Schubert water on behalf of Cherokee.

ITEM 14:

⇒ Adjournment

There being no further business to come before the Board at this time, a motion was made for adjournment.

The Meeting adjourned at 8:25 p.m.

Gayle Jones, Treasurer

Board Members

Term Expires

Ted Schubert, President

May, 2010

Andy Anderson, Vice President

May, 2010

Gayle Jones, Secretary

May, 2010

Dave Hacker, Director

May, 2008

Robert Lovato, Director

May, 2008