

**CHEROKEE METROPOLITAN DISTRICT**  
**REGULAR MEETING OF THE BOARD OF DIRECTORS**

June 10, 2008

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, June 10, 2008, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Ted Schubert	Robert Lovato
Steve Hasbrouck	Andy Anderson
Gayle Jones	

OTHERS PRESENT

Kip Petersen	Pete Heidebrecht
Dian Hardekopf	Len Meyer
Art Sintas	Griff Rainford
Jim Felt	Lily Baker
Sara Howard	Todd Laxson
Ed Meyer	Robyn Herzog
Sandy DeCarolis	

OTHER GUESTS SIGNING ATTENDANCE LOG

Bill Beahan	Jan Olson	Dave Mattes
Dave DeHart	Ken Martinez	Wade Antener
William Hudson	Heath Herber	
Tina Hudson	Jon Maroon	
Terry Shaw	Margaret Smith	
Jim and Judy Burnside	Lynne Bliss	
Amy Lathen	Sean Byer	

ITEM 1:

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

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. ANDERSON MADE A MOTION TO APPROVE THE AGENDA AS WRITTEN FOR THE REGULAR MEETING OF JUNE 10, 2008. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 4:

The Minutes of the Regular Meeting of May 13, 2008, were reviewed. Mr. Schubert asked if there were any changes that needed to be made to the Minutes. There were none noted.

**\*\*\*MOTION\*\*\***

**MS. JONES MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF MAY 13, 2008, AS WRITTEN. SECONDED BY MR. HASBROUCK. 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 was a show of three hands.
- Mr. William Hudson recently emailed Mr. Petersen and Mr. Lovato with a list of questions concerning the District's water resources. Mr. Petersen, with very little time from receiving the correspondence, was able to research and answer all of Mr. Hudson's questions.
- Question: Have all the water rights, which have been obtained this past year, been connected to the District's system?  
Answer: Fifty percent have been connected.
- Question: Have those wells delivered above or below predicted production?  
Answer: Predictions which were made have been met, and production has been steady.
- Question: How many tap fees have been sold this year compared to last year?  
Answer: 183 were sold last year, compared to 43 so far this year.
- Question: How is the water being used this year according to predictions?

Answer: Not well, as consumers are not adhering to the mandatory conservation efforts; and there has been a large amount of excess watering. For example, last year at this time, the District was using 2.0 mgd on a typical non-watering day; this year, 4.1 mgd is being used on a non-watering day. With annual precipitation this year only reaching 2.5" moisture thus far, it is easily realized that precipitation does affect consumption.

- Mr. Hudson suggested a flashing billboard outside the District's Office relaying the District's daily consumption, as he thought this avenue would trigger awareness by customers of the continuous need to conserve. He also made a comment that it was his understanding that in Oklahoma, a first water violation starts at a \$1,000; a second offense is a \$2,000 fine, and a third offense forces the customer's water to be turned off. Mr. Hudson feels that the Board should establish more stringent fines.
- Over the past weekend, Mr. Beahan had made a visual observation that a commercial business within the District had its sprinkler systems running continuously for two days. A call to the after-hours answering service did not result in any action to get this leak controlled. Mr. Sintas said he would follow up with the answering service to improve the flow of communication between the District and its customers.
- Brian Kurtz raised several concerns regarding the right of ways and parks in the Claremont Ranch Subdivision. Living close to Headgate on Pinyon Jay Dr., he has noticed a gradual deterioration in the community park, claiming it's now infested with weeds; the sod has died and, in general, has been kept up since last year. With his home being his biggest investment, he is very concerned about property values and believed the two-day-a-week watering schedule was not enough to promote a healthy lawn. He was also concerned about not having a play area and parks in his community to use as an enjoyable environment for his growing children, and referred to another park in an area of the District as being in better condition than the ones in Claremont Ranch. Mr. Sintas commented that unfortunately that specific park which was referring to had a sprinkler system repair that needed to be tended to. Mr. Sintas also summarized that developers building homes in the subdivision were responsible for interspersing common areas and parks among the developments, and it was the District's responsibility to maintain them after they were developed. Mrs. Kurtz wanted to know how long the water restrictions would last and stated there were no other restrictions enforced elsewhere in the entire State of Colorado. Mr. Petersen felt the District would experience at least one more summer with the two-days-a-week watering schedule and hoped, by the year 2010, a three-days-a-

week watering conservation plan would be realized with the upcoming waste water treatment plant coming on line. Mr. Petersen asked that they allow him to contact them in the near future so that they could discuss the issues more thoroughly and have them help with a Park Advisory Board.

- Mrs. Smith stated her Sunday and church activities prevented her from watering on her scheduled day and, with no automatic sprinkler system established in her lawn, requested a variance to change her watering days to Tuesdays and Saturdays.

There were no other public comments.

#### ITEM 6:

##### ⇒ Legal Report – Mr. Jim Felt

- Mr. Felt updated the Board on the Denver Basin lease cases, advising the El Paso County Judge had determined that he felt the District's briefs were valid and sufficient and no oral arguments were necessary. Mr. Felt stated that an upcoming trial is inevitable we just don't know where it will be held; may be Denver or Colorado Springs.
- The court case to determine Cherokee's jurisdiction of the Denver Basin aquifers underlying the District is scheduled for July 2. The District hopes to obtain 450 acre feet from a positive ruling. Mr. Felt stated that if we receive this that the 450 acre feet could go towards our deficit.
- Cherokee's endeavors to buy back 28 acre feet of water from CAR 3 Investment, LLC, has now been approved by the State Engineer's Office. Since Mr. Felt is comfortable with the contract sale, he asked the Board to make a motion to authorize the staff to complete the transfer TO Cherokee, LLC and receive this water contingent on county approval. The Board thanked Mr. Herber for his generosity in allowing this opportunity to the District.

#### **\*\*\*MOTION\*\*\***

**MS. JONES MADE A MOTION TO AUTHORIZE STAFF TO PURSUE A CONTRACTUAL RESALE OF WATER BACK TO THE CHEROKEE, LLC FROM THE CAR 3 INVESTMENT, LLC. SECONDED BY MR. HASBROUCK. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

Mr. Herber stated that he chose to sell the water back to the District because with the economy slowing down he does not need the water right away and he has great confidence in the Cherokee District Board and Staff that the issues for water will be resolved in the near future.

ITEM 7:⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Velocity Constructor's 14<sup>th</sup> and 15<sup>th</sup> pay requests have been received. Pay request 14 is effective through May 26, 2008. With retainage at 5%, the net amount due the contractor is \$5,155.40. Pay request 15 pertains to the release of retainage, and GMS has instigated the advertisement for final payment; and it should be made on or after June 30. The retainage on the contract is \$109,611.77. The combined total for pay applications 14 and 15 is \$114,767.17. GMS recommends approval in that amount.

**\*\*\*MOTION\*\*\***

**MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 14 AND 15 TO VELOCITY CONSTRUCTORS IN THE COMBINED AMOUNT OF \$114,767.17. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- WPCRF Loan Requisition No. 6 has been prepared, and it requests a total of \$117,473.10 to be remitted to the District to cover eligible costs occurring within May. Cherokee's cost for these activities taking into account Meridian's contribution totals \$62,203.81 for Velocity Constructor's two invoices, \$23,659.31 for engineering-related services, \$28,872.88 for the Mountain View Electric service extension, and \$2,737.10 for the El Paso County Development Services Department fees. GMS recommends approval of the Requisition.

**\*\*\*MOTION\*\*\***

**MR. LOVATO MADE A MOTION TO AUTHORIZE \$117,473.10 DRAWN AGAINST THE REVOLVING FUND FOR PAYMENT FROM WPCRF LOAN REQUISITION NO. 6. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Mr. Meyer provided a brief overview of the Project Expenditure Reimbursement Request No. 6 (see attached).
- GMS continues to work with the Pikes Peak Regional Building Authority on the approval of the ten sets of drawings. Nine of the ten sets have been approved internally by Regional. The tenth submission pertaining to the Operations Building has been revised

with clarifications made and is in the process of being resubmitted. The ten documents cannot be signed off by Regional until El Paso County Development Services has signed off on the zoning component, and sign off on all submissions has been scheduled to occur on June 18. A subsequent follow-up meeting will be required with Pikes Peak Regional to receive their final concurrence that all ten applications are in place and permits are ready to be pulled. That should occur within a few days after June 18.

- The Colorado Department of Public Health and Environment's review of the WWTP plans and specifications has been completed.
- WWTP bids were opened on the project on June 5. Seven general contractors submitted bids. Mr. Meyer provided the Board an attached document itemizing the lump sum totals submitted by the seven bidders. The low responsive bidder was Glacier Construction with a bid of \$15,246,900. The engineer's estimate for the work was \$16,736,728. The three lowest bidders were required to submit a schedule of values per the Bid Form for a breakdown of the bids submitted (attached). The difference between the Engineer's estimate and Glacier Construction's bid reflects a hopeful \$1.5-\$2 million dollar savings for the District.

GMS has undertaken a variety of smaller projects in the past with Glacier Construction, and overall the reports have been favorable with Glacier's performance. Based upon the project being within budget, the low responsible bidder being qualified to undertake the work and the appropriate approvals in place, GMS recommends award of the wastewater treatment plant project to Glacier Construction in the amount of \$15,246,900.

**\*\*\*MOTION\*\*\***

**MS. JONES MADE A MOTION TO FORMALLY AWARD THE WWTP BID TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$15,246,900. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- After the motion was approved, applause broke out in the audience and among Board Members and staff on behalf of Mr. Meyer's and GMS's hard work and efforts and also in realizing the WWTP is not only a vision, but a reality, for the District in its near future.

At this time, Mr. Schubert asked for a five-minute break. The meeting recessed at 6:34 p.m.

The regular meeting resumed at 6:42 pm.

ITEM 8:⇒ Manager's Report – Kip Petersen

- Before Mr. Petersen addressed his attached reports, he wanted to personally acknowledge past Board Members Jon Maroon and Bill Beahan for their support and participation in discussions when the WWTP was originally in the developmental stage.
- Mr. Petersen provided two articles of stories that ran in the *Gazette* several weeks ago outlining the financial concerns the Colorado Springs Utilities is experiencing as a result of reduced revenue and conservation efforts.
- In the attached memo, Mr. Petersen advised the Board that for the last several weeks the District has been accepting the Pueblo West water through CSU under the provisions of the special contract approved by the City Council last year. Approximately 215 acre feet (AF) of the 500 AF of water was consumed by the District last year. Additionally, CSU has indicated they have excess water available if the District is interested. The lease cost and delivered cost of this additional water bought from the City would be at the same cost as our contract with Pueblo West. The total cost will be approximately \$243,165; with customer sales generating about \$161,250, the cost to the District will be approximately \$81,915. Mr. Petersen strongly encouraged the Board to authorize its purchase as soon as possible.

**\*\*\*MOTION\*\*\***

**MS. JONES MADE A MOTION TO AUTHORIZE MR. PETERSEN TO SECURE A CONTRACTUAL SALE OF WATER WITH THE CITY OF COLORADO SPRINGS UTILITIES FOR THE PURCHASE OF 215 ACRE FEET OF WATER, NOT TO EXCEED THE AMOUNT OF \$243,165. SECONDED BY MR. ANDERSON. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Mr. Petersen was pleased to inform the Board that the District's Water Conservation Plan has been approved. Cherokee Metropolitan District is one of only 14 state-approved water conservation plans.
- Ms. Jones asked for an update on the Pikes Peak Regional Water Authority which the District was asked to join in 2004. Mr. Petersen said one of PPRWA's objectives is working on the Southern Delivery System originating from Pueblo Reservoir. With the District paying them \$20,000 in annual dues, Mr. Petersen would like to see some

progress with them, i.e. bringing water to the District. If not, the District may have to reevaluate its participation.

- Mr. Petersen asked the Board to authorize the President to sign the agreement between Cherokee and GMS to formalize the arrangement on engineering services for the District's participation in the Sterling Ranch water and sewer system design.

**\*\*\*MOTION\*\*\***

**MR. LOVATO MADE A MOTION TO AUTHORIZE THE DISTRICT TO PARTICIPATE IN THE STERLING RANCH WATER AND SEWER SYSTEM DESIGN. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Mr. Petersen apprised the Board and requested approval for the District to become a member of the Colorado's Water/Wastewater Agency Response Network (CoWARN) Mutual Aid and Assistance Agreement. Recognizing that emergencies may require assistance in the form of personnel, equipment, and supplies from outside the area of impact, CoWARN members coordinate response activities and share resources.

**\*\*\*MOTION\*\*\***

**MS. JONES MADE A MOTION TO APPROVE THE EXECUTION OF THE COWARN AGREEMENT AS DISCUSSED. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Mr. Petersen discussed a problem with the Schriever AFB housing project and the tap fees requested within the contract; giving the Board all the previous documentation to review. The representative of Actus Lend/Lease is asking that Cherokee change the original tap fee requirement from individual tap fees totaling the \$3.8 million to a one tap at a much lower cost. This dollar amount was never given by the representative, but we assume in the area of \$150,000. Mr. Petersen stated that Actus has always been aware of the cost and feels the Board should not sway from the required cost. The Board unanimously agreed with keeping the tap fee as originally required.
- The Golf Course Well has been approved by the state, and the permit should arrive this week. The Course will then utilize non-potable water from the Sand Creek well for irrigation purposes. A round of applause erupted in the room.

- Mr. Petersen will be coordinating a date in the near future for a formal groundbreaking of the WWTP.
- Mr. Antener asked about the length of time it takes water to leach through the aquifers and return back for Cherokee use. He had heard it takes ten years to recycle. Mr. Petersen replied that it takes approximately six months for treated wastewater to be returned through the recycled process.

#### ITEM 9:

##### ⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands (see attached). Demands for May were 4.12 mgd compared to the same time last year of 2.63 and 5.31 mgd for 2006.
- The Pikes Peak Wells have produced 277 acre feet of a total of 840 acre feet available, which equals 33% capacity. Tipton Well has produced 53 acre feet of 225 acre feet total, equaling 24% of its capacity, and is currently turned off. As of this date, the District has received 25% of its allotment from the Pueblo West water which flows through the City of Colorado Springs, this equals 57 acre feet of a total of 250 acre feet. Total of all sources consumed equals 26%.
- The Stage 2 Water Conservation Plan is currently in effect. To date, 465 watering violation warnings have been issued, with 21 second violations of \$50 and two, third violations of \$100. Seventy-six sod permits were sold with May 15<sup>th</sup> being the purchase deadline.

#### ITEM 10:

##### ⇒ Golf Course, Pro Shop – Todd Laxson

- Before Mr. Laxson provided his monthly report to the Board (see attached), he expressed his admiration to Mr. Petersen, the Board, and the administration for all their support and diligent efforts in making the Golf Course such a successful and rewarding addition to the District.
- May marked the implementation of the last phase of the tiered green fee structure on the regulation course. May also marked the end of the Colorado School of the Deaf and Blind programming for the year, and it is hoped this will continue again next year.
- As many public comments are unintentionally overlooked and not passed on to the appropriate staff, Mr. Laxson wanted to

compliment Mr. Rainford and his team on the excellent care and maintenance of the greens.

- The 4<sup>th</sup> Annual Jim Lipp Memorial Match Play tournament was held the first weekend in June, and the Golf Channel's Drive Chip and Putt Contest will be held on June 14.

#### Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the May maintenance of the Golf Course (see attached). May was a dry, but good, month for the turf on the Golf Course. The maintenance crew is fully staffed with seasonal help and is focused on daily maintenance and upkeep of the course and improving troubled areas
- Greens were fertilized and verticut to help reduce thatch, and fairways were fertilized and are filling in nicely. Watering has taken place on an as-needed basis to meet the District's restrictions.
- The putting and chipping greens, as well as some other troubled areas, have been over seeded and top dressed.
- The pond silt was removed by U.S. Aquavac and is ready for filling once the permit arrives.

#### ITEM 11:

##### ⇒ Old Business

There was no old business to report.

#### ITEM 12:

##### ⇒ New Business

- Mr. Antener brought to the staff's attention there were lights out near Peterson Rd. and Constitution Ave. He also asked about the possibility of making online payments. Ms. Hardekopf replied that a new billing system is being implemented and will hopefully be in place in the very near future. With the induction of the new billing system, the appearance of customers' monthly bills will change and there will be a better explanation of their usage and charges. However, the ability to pay online through the District's website will hopefully be realized next year after the 2009 departmental budget is reviewed.

ITEM 13:

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

**\*\*\*MOTION\*\*\***

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

Executive Session was entered into at 7:22 p.m.

**\*\*\*MOTION\*\*\***

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

The Regular Session began at 8:07 P.M.

Mr. Petersen stated that no formal action was to be taken after the executive session as the executive session was strictly update and information only on pending legal issues.

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 8:09 p.m.

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Gayle Jones, Treasurer

Board Members

Term Expires

Ted Schubert, President  
Steve Hasbrouck, Vice President  
Gayle Jones, Secretary  
Andy Anderson, Director

May, 2010  
May, 2012  
May, 2010  
May, 2010

Robert Lovato, Director

May, 2012