

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

August 12, 2008

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, August 12, 2008, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Ted Schubert	Gayle Jones
Steve Hasbrouck	Andy Anderson
Robert Lovato	

OTHERS PRESENT

Kip Petersen	Jim Felt
Dian Hardekopf	Ed Meyer
Art Sintas	Sandy DeCarolis
Todd Laxson	Brian Beaudette
Pete Heidebrecht	Griff Rainford

OTHER GUESTS SIGNING ATTENDANCE LOG

Mary Hernandez	Chloe Olson
Michael Rasdall	Terry Shaw
Lynne Bliss	Jim & Judy Burnside
Dave Mattes and Family	Dave Hacker
Ruthann Hacker	Jan Olson
Wade Turner	Karl Raymond
Joe Craig	Ken Martinez
Bill Beahan	

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. Mr. Petersen asked that item 14 of the agenda be moved to right after item 7 on the agenda. There were no objections.

MOTION

MS. JONES MADE A MOTION TO APPROVE THE AGENDA WITH THE MOVING OF ITEM 14 TO BE RIGHT AFTER ITEM 7 FOR THE REGULAR MEETING OF AUGUST 12, 2008. SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 4:

The Minutes of the Regular Meeting of July 8, 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, AS WRITTEN, FOR THE REGULAR MEETING OF JULY 8, 2008. SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 5:

The Minutes of the Special Meeting of July 18, 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, AS WRITTEN, FOR THE SPECIAL MEETING OF JULY 18, 2008. SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 6:

The Minutes of the Special Meeting of July 25, 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, AS WRITTEN, FOR THE SPECIAL MEETING OF JULY 25, 2008. SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 7:⇒ Public Comments

- Mr. Schubert asked if there was anyone that wished to speak from the audience. There was a show of three hands.
- Mr. Joe Craig stated that he was on the Board for the Pronghorn Meadows HOA. They are concerned that the area set aside for a park has never been developed by Cherokee and was told by the developer that they had deeded the land to Cherokee for this purpose. Ms. Jones stated that the parks have been a topic from the public for some time now and stated that the District does indeed need to get some proposals together for the parks and present this at the next Board meeting. Mr. Sintas responded that the Developer had misinformed Mr. Craig; the agreement for these open areas is that the Developer is required to develop these open areas with park equipment or paths and once developed, Cherokee will then take them over to maintain. Mr. Sintas had talked numerous times with this developer and they are aware of what should have been done.
- Mr. Karl Raymond addressed the Board just to let them know that he had been emailing back and forth with Mr. Petersen on his concerns of how the water purchases and sales to developers are being handled by the District. Mr. Raymond handed out copies of these emails to both the Board and the public (see attached).
- Mr. Dave Mattes stated that as he feels for the homeowners within Claremont and Pronghorn areas; he has been waiting years for Cherokee to develop the open area behind his home on Tahlequah Drive (Westridge Park). Again Ms. Jones stated that the Board would take a more serious look at the parks with proposals and suggestions from the staff. Mr. Petersen reminded the Board that less than a year ago he attempted to get help from the community by creating a Park Advisory Board and at that time no one came forward in interest for the Parks and open space.

ITEM 8:

⇒ Item 14 – New Business was moved to item 8
Request from Actus Land Lease

- Mr. Petersen summarized for the Board and the public the Actus Land Lease request to reconsider and reduce the tap fee for the Schriever Air Force Base housing development. Mr. Wade Turner asked that they be able to present their argument to the Board for consideration. At this time, Mr. Petersen introduced Mr. Turner.

Mr. Turner was accompanied by Mr. Jim Mullen and Mr. Bill Leonard. Mr. Turner presented to the Board a handout (see attached) showing the history of Actus Land Lease and their objectives for the housing developments on military bases. Mr. Turner commented that they are not like a developer, they are partners with the Air Force and the housing is to benefit the military families. Actus feels that since Cherokee has existing infrastructure to the site that there would be minimal investment for Cherokee and that Actus would improve the water supply with an on-site water storage tank. Actus also stated that unlike a developer of a sub-division, that there would only be one monthly bill; Actus would design, install, operate and maintain the distribution system and that Cherokee would have no operations and maintenance costs. Mr. Turner feels that a much lower tap fee would be more appropriate for this type of housing. Mr. Turner also explained that they calculated a much lower tap fee based off the District's web site and calculating what they thought an 8" would be using the cost of the 6" rate.

Mr. Meyer explained that from the very beginning of the talks with SAFB regarding the base housing that the tap fees would always be based on Single Family Equivalents (SFE) and that Cherokee has always been up front with the total costs of these fees.

Mr. Petersen explained that the letter from Mr. Sintas was sent to the appropriate people of Actus dated July 12, 2007; the letter clearly covered the cost of water, sewer, and water acquisition fees. Mr. Petersen further explained that all developers of any sub-division are required to design and install all infrastructures during development. Cherokee has never wavered in any discussions with these tap fee costs. Much discussion took place regarding the negotiations of a lower tap fee. Some of the public voiced their thoughts that the Board should stand ground on the original costs as it could affect the current District's customers and their costs of services. The Board stated that they would need to discuss further issues towards this topic within the Executive Session to obtain

legal advice. They would have Mr. Petersen get back to Mr. Turner with the outcome of the discussions.

ITEM 9:

⇒ Legal Report – Jim Felt

- Mr. Felt told the Board that he received an order from El Paso County District Court on the Wayne Booker suit challenging the Denver Basin Leases. Cherokee filed a Motion to dismiss the case for lack of jurisdiction. Judge Schwartz agreed with Cherokee and dismissed the case so now it will go back to the Ground Water Commission. A September 15th meeting will be held to set a hearing date with the Ground Water Commission Hearing Officer. Mr. Felt stated he feels comfortable and positive with this outcome.
- The case regarding the application to quantify the Denver Basin water under the District boundaries is being determined. Cherokee asked for a credit back for the LIRFs since we bring water in from another Basin. This should be resolved in 30 days.
- Mr. Felt updated the Board on the Replacement Plan that was submitted the 1st of April, stating that Mr. Culichia contacted Mr. Dick Wolfe, the State Engineer, and Mr. Wolfe said that he would get the plan moved to the top of the priority list. Mr. Wolfe feels we are breaking new ground and would like to see things move along.

Mr. Lovato asked how long it would take for the water to percolate once in the basins. Mr. Meyer stated it would be 6 months and if the plan is approved then Cherokee can drill more wells and increase the amount of water that is currently limited from the Pikes Peak Wells. Mr. Raymond asked that if we have the possibility of drilling more wells then shouldn't we start getting permits and other items needed now rather than waiting. Mr. Meyer stated that all of that has been issued with the Replacement Plan and would be approved at the time the plan is approved.

ITEM 10:

⇒ Engineering Report - Ed Meyer

Mr. Meyer handed out his outline for the evenings meeting (see attached). Mr. Meyer asked the Board to approve the 7th draw request from the Water Pollution Control Revolving Fund Loan in the amount of \$294,196.21; reminding the Board that this is to reimburse the District for costs already incurred.

MOTION

MR. LOVATO MADE A MOTION TO APPROVE THE 7TH DRAW REQUEST FROM THE WATER POLLUTION CONTROL REVOLVING FUND LOAN IN THE AMOUNT OF \$294,196.21. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Mr. Meyer reported on the status of the WWTF stating that they have been successful in completing the Pikes Peak Regional Building Department's review and approval. Glacier Construction has now secured 33 building permits to cover the project.

Glacier Construction started work after the Notice to Proceed was issued. The first pay request has been issued that covers from July 7 through July 31, 2008. The gross amount earned on the pay application #1 is \$451,519.53; retainage is at 10% so the amount due to Glacier Construction is \$406,367.58. GMS recommends payment in this amount.

MOTION

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST #1 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$406,367.58. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 11:⇒ Manager's Report – Kip Petersen

- Mr. Petersen reported that there may be a further solution to the water at the golf course which would help take the water of the course off potable water all together. Mr. Petersen explained that they have received permission to check out the wells owned by the Venezias that are located on the golf course. These wells are within the Denver Basin. If the wells check out good, the District will look at purchasing.
- Mr. Petersen reminded the Board that the hearing for the determination and quantification of the Denver Basin waters below the District boundaries will be set for some time in September.
- Mr. Petersen reported that the proposed fine came in from the State Health Department for the notice of violation on the wastewater treatment plant being out of compliance last year. The fine was set at \$119,000; at this time, staff along with GMS staff

will be meeting in 2 weeks with the State Health Department to negotiate this fine.

ITEM 12:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands (see attached). Demands for July were at 4.880 mgd compared to July 2007 of 4.626 mgd and July 2006 of 4.08 mgd. Mr. Sintas stated that the Pikes Peak Wells have produced 604 acre feet for the year and the Tipton well is at 53 acre feet. While the Guthrie Well was just turned on and flowing at 750 gpm. Cherokee has received 342 acre feet of the 500 available from the City. To date, our total pumping for these sources is at 999 acre feet.
- Mr. Sintas stated that we are still on the Stage 2 Water Conservation Plan and does not recommend any changes. To date, 898 watering violation warnings have been issued, with 121 second violations of \$50, 21-third violations of \$100, 2-fourth violations of \$350, and 1-fifth violation of \$600. Seventy-six sod permits were sold with May 15th being the purchase deadline, however the selling of new sod permits will begin September 2nd.

ITEM 13:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson reported on the Golf Course activities (see attached) stating that the Course has already surpassed the year-to-date total from 2007. This is due in part to the price increase of the regulation course fees, punch card fees, and the premiere card.
- Mr. Laxson stated that the Pepsi 3-Man Scramble was held July 12th and 13th and wanted to thank Pepsi/Lane Sales for their continued support of this tournament.

Maintenance – Griff Rainford

- Mr. Rainford read his memo to the Board (see attached) highlighting all of the July activities. Mr. Rainford reported that the Course had irrigated with the new well on July 18th pumping at 100 gpm.

ITEM 14:

⇒ Old Business

Mr. Petersen provided an amendment to the Poleson well contract the amendment would allow for Cherokee to recoup some of the costs up to \$2500 from Poleson if there is a problem with receiving the easement. Mr. Petersen asked that the Board authorize either Mr. Schubert or Mr. Petersen to sign the amendment if Mr. Poleson agrees.

MOTION

MR. LOVATO MADE A MOTION TO AUTHORIZE MR. PETERSEN TO SIGN THE AMENDMENT TO THE AGREEMENT WITH POLESON. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 15:

⇒ New Business

- There was no new business at this time.

At this time, Mr. Schubert asked for a five-minute break. The meeting recessed at 7:25 p.m.

The regular meeting resumed at 7:33 p.m.

ITEM 16:

⇒ 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. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Executive Session was entered into at 7:34 p.m.

MOTION

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

The Regular Session began at 8:16 p.m.

Mr. Petersen stated that the Board discussed several negotiations and also talked about the Actus Land Lease tap fee request. At this time Mr. Petersen ask that the Board make a decision on the tap fee request.

MOTION

MS. JONES MADE A MOTION TO MOVE FORWARD WITH STAFF AND MANAGEMENT RECOMMENDATIONS TO ADHERE TO THE RATES AND DIRECTIVES LAID OUT IN THE STAFF LETTER DATED July 12, 2007 AND TO DIRECT MR. PETERSEN TO SEND A COMMUNICATION TO THE AIR FORCE LAYING OUT THE RESULTS OF OUR NEGOTIATIONS AND PROVIDE OUR HISTORY OF THESE DISCUSSIONS TO THE AIR FORCE. AS PART OF THIS DIRECTIVE, CHEROKEE WILL CLEARLY STATE WE WILL NOT SUPPLY SEWER SERVICES WITHOUT SUPPLYING WATER. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 17:

⇒ Adjournment

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

The Meeting adjourned at 8:20 p.m.

Gayle Jones, Treasurer

Board Members

Term Expires

Ted Schubert, President	May, 2010
Steve Hasbrouck, Vice President	May, 2012
Gayle Jones, Secretary	May, 2010
Andy Anderson, Director	May, 2010
Robert Lovato, Director	May, 2012