

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

November 11, 2008

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, November 11, 2008, at 5:00 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	Lee Rosenbaum
Dian Hardekopf	Sandy DeCarolis
Jim Culichia	Len Meyer
Art Sintas	Lily Baker
Ed Meyer	Todd Laxson
Sara Howard	Griff Rainford
Tyler Drennan	Pete Heidebrecht
Robyn Herzog	

OTHER GUESTS SIGNING ATTENDANCE LOG

Jim and Judy Burnside	Lynne Bliss
Dave and Linda Mattes	Jan Olson
Mary Hernandez	Kenneth Martinez
David Mattes	

ITEM 1:

The meeting was called to order by Chairman Ted Schubert at 5:00 p.m. Ms. Hardekopf called roll call of the Board of Directors, all Directors were present.

ITEM 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*****

MS. JONES MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF NOVEMBER 11, 2008. SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 4:

⇒ 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 ON THE PENDING SUIT AGAINST FORMER LEGAL COUNSEL. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

*****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).

Executive session ended at 5:32 p.m.

A short break was taken at 5:32 p.m.

The Regular Session began at 5:34 p.m.

ITEM 5:

The Minutes of the Regular Meeting of October 14, 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 OCTOBER 14, 2008. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 6:

⇒ Budget Hearing – 2009 Budget Year

*****MOTION*****

MR. LOVATO MADE A MOTION TO OPEN THE BUDGET HEARING TO THE PUBLIC FOR THE 2009 BUDGET. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Before Mr. Petersen began his presentation, and in acknowledgement of Veterans' Day, he requested all those in attendance to allow for one minute of silence to personally reflect their own moment of gratitude to those who made the sacrifice to serve our country.
- Mr. Petersen then provided the attached memo to the Board for their review and began his introduction and discussion regarding the 2009 Budget. During the development of the budget, several analyses had been done and provided to the Board to illustrate the level of cost increases that the District had experienced in the provision of all its services. Mr. Petersen also provided to the Board the attached additional budget document for their review. In that document, he provided a brief explanation of each line item and the determination if it was a fixed cost or a variable cost.
- Regarding the water rate discussion from the last meeting, Mr. Petersen believed approximately 25 taps would be sold next year, those from SAFB housing development. This year was the second year whereby there were no water rate increases, which was prevented primarily by the District absorbing costs through its reserves. Now, driven by the bond coverage requirement, Mr. Petersen strongly recommended to the Board a water rate increase of 35% and a street light increase of eight cents.
- Page by page, Mr. Petersen discussed each budget item, line for line, starting on Page 16.
- Because this year's rate of inflation fluctuates around 4.9%, and with employees having to take more increases, Mr. Lovato requested Mr. Petersen keep track of added costs incurred to employees which would be compounded unfavorably to the employees because of the absence of a 3% cost of living allowance (COLA).

- Ms. Jones requested a comparison of the current outside park maintenance contract to that of the same work which would be performed in-house in the next coming year. Mr. Petersen responded by stating an employee hired by the District would not only perform summer maintenance on the grounds and within the District but also in the winter months would be responsible for planning and analysis of open spaces and park development. This new position would be funded by the contribution of lottery funds allotted to the District.
- Ms. Jones passed around for discussion (see attached) a chart of Cherokee Metro District Salary History for the years 1995-2008. In her discussion, it was her belief and Mr. Anderson's, by reviewing the previous 15 years of increases in salaries; the recommended 3% cost of living allowance should not be awarded to employees for the 2009 year. Mr. Lovato disagreed with Ms. Jones, stating the District's employees are doing a great job and the District needs to maintain a good level of employees and they need to be able to stay ahead. Mr. Anderson rebutted, stating the raises given over the past years were a good justification for not giving a raise this year and believed employees were making more than most people in the same industry. Mr. Lovato reminded the Board that the Board approved themselves a raise for the current year; however, Mr. Lovato was the only Board Member who did not vote for the raise. Ms. Jones believed that, had salaries been "in check" the past years, she would feel more apt to give a raise this year.

Two members of the audience supported both Ms. Jones and Mr. Anderson's statements.

With Mr. Anderson's belief that the District's employees are making more than similar positions in the industry, Mr. Petersen respectfully disagreed by stating the salary survey conducted by the Manager from Donala shows that most employees are about mid-range for the same industry and he felt employees were being punished because of decisions made by past administration. Mr. Meyer stated that his review of the study clearly shows the majority of staff at the mid-range level and that employees for the District should only be compared to like Districts for an accurate comparison.

One audience member noted that with an increase of 5.8% COLA to Social Security and 3.9% to Military, that District employees should at least get the 3% COLA.

- After lengthy debate and discussion, because it would affect a possible adjustment to the 2009 Budget, Mr. Petersen requested a motion be made to address the COLA.

*****MOTION****

MR. ANDERSON MADE A MOTION TO KEEP THE SALARIES THE SAME WITH NO PAY INCREASES FOR 2009. SECONDED BY MS. JONES.

- More discussion entailed. Mr. Hasbrouck suggested perhaps a workshop could be scheduled to devote full attention to COLA. Mr. Petersen believed he had done everything possible prior to the meeting to bring to the Board his current recommendation including, but not limited to, a salary survey among other utility companies.

A ROLL CALL VOTE WAS TAKEN FOR THE ABOVE MOTION. MR. HASBROUCK-NO. MR. LOVATO-NO. MR. ANDERSON-YES. MS. JONES-YES. MR. SCHUBERT-ABSTAIN. MOTION FAILED (2-NO, 2-YES, 1-ABSTAIN)

- Mr. Hasbrouck brought to the table another proposal whereby the Board would grant a 1 ½% COLA to employees for the 2009 year.

*****MOTION****

MR. HASBROUCK MADE A MOTION TO APPROVE A 1 ½% COLA TO DISTRICT EMPLOYEES FOR YEAR 2009. THE MOTION DIED FOR LACK OF A SECOND.

- At this time Mr. Petersen proposed that the Board consider a onetime 3% employee COLA increase for the 2009 budget year, the bonus would have no affect on the employee's salary. A statement was made that the 3% bonus should be made payable in quarterly checks. With Mr. Anderson's request that higher-ended salaried positions should reach a salary cap, Mr. Petersen said he would prepare and provide to the Board his determination of salary information for each position within the organization for a future meeting.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE A ONETIME 3% EMPLOYEE COLA TO BE MADE PAYABLE QUARTERLY FOR THE 2009 BUDGET. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

At this time, Mr. Schubert asked for a short break. The meeting recessed at 8:10 p.m.

The regular meeting resumed at 8:22 p.m.

- During the above recess, it was brought to the attention of Ms. DeCarolis that a line item involving the Golf Course's lawn mower needed to be discussed with the Board. Because the new mower was removed as a capital line item, the old mower would continue to require equipment parts for the 2009 year; the increase would change the line item by \$2000. She asked the Board to approve this change.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE BUDGET AS TENTATIVE WITH THE INCREASE FOR THE GOLF COURSE LINE ITEM OF \$2000. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Petersen requested the Board to revert their attention to the capital budget, and he proceeded to go over the budget, line item by line item. Ms. DeCarolis explained that the Division of Local Government shows an amount for \$350,000 from the water & wastewater fund to the golf course fund to be used to cover the cost of wells and asked if this should be termed as an "advance" or "transfer." If the funds were used as an advance, the money would have to be paid back; for a transfer, the money doesn't have to be paid back to the water and wastewater fund. Mr. Petersen recommended the transaction be termed as a transfer. Ms. Jones concurred, and there were no objections. Ms. DeCarolis stated that the line item would be left as is and a recommendation would be made next month.
- Before the Budget Hearing was closed, Mr. Petersen stated he appreciated the Board's acknowledgement in how hard the staff has worked, and said he would accept any decision by the Board, as they had the final decision.
- The Budget Hearing was closed at 8:50 p.m. and the Regular Meeting resumed.

ITEM 7:⇒ Public Comments

Dave Mattes commented he felt the Budget Hearing was a good debate. No other comments were made.

ITEM 8:⇒ Legal Report – Mr. Jim Culichia

- Mr. Culichia updated the Board on the Denver Basin water case underlying the District stating the water court decree had been signed by the referee and would soon be signed by the District Court Judge.
- The Replacement Plan is set for trial before the hearing officer of the Groundwater Commission on June 8-19, 2009. Five objections have been filed.
- On December 2, 2008, Counsel, Engineers, and Staff have received a special invitation to attend the Upper Black Squirrel's monthly meeting. The District will be making a presentation on the District's Replacement Plan and Waste Water Treatment Facility.
- On December 5, 2008, a hearing will be held at the State Engineers Office for a status conference for the Denver Basin Lease Case.
- March 2-6, 2009, a hearing is scheduled at the Department of Wildlife Office regarding the Denver Basin lease case. The Judge did grant a motion that injury is not an issue and did rule the leases do give consent to Cherokee. Objectors will have an opportunity to rebut that ruling at the hearing.
- Permits are being filed for change in well uses for Cherokee's existing wells 9-12 and 13-17.
- The Groundwater Commission meeting scheduled for November 21, 2008, in Denver, will be considering a change in rule 7.7.4. This change proposes the transfer of power to determine export rights to Groundwater Management Districts for historical consumptive use. Cherokee has strongly opposed this in writing, and will have ten minutes to argue and support its case.

ITEM 8:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). GMS has negotiated Change Order No. 1 on the Glacier Construction Company contract, which included raising the road in elevation and realigning the culvert associated with the County's barrow ditch. The agreed-upon change order is \$14,000, which will increase the total contract from \$15,246,900 to \$15,260,900. GMS recommends approval of the Change Order.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE CHANGE ORDER IN THE AMOUNT OF \$14,000 INCREASING GLACIER CONSTRUCTION'S CONTRACT IN FROM \$15,246,900 TO \$15,260,900. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Glacier Construction's 4th pay request has been received. It reflects \$489,190.94 with retainage at \$124,510.24. The retainage will be placed in the District's COLO Trust account established for this purpose. Taking both the retainage and the prior payments into account, the net amount due the Contractor is \$1,120,592.15. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 4 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$1,120,592.15. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- The Water Pollution Control Revolving Fund Loan Request No. 10 has been prepared, and it requests a total of \$700,996.56 to be remitted to the District to cover eligible costs occurring within the month of October. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #10 BACK TO THE DISTRICT IN THE AMOUNT OF \$700,996.56. SECONDED BY MR. HASBROUCK. THERE WAS NO

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

At this time, a short break was requested so Mr. Schubert could provide signatory authority on the above contracts. The meeting recessed at 9:12 p.m.

The regular meeting resumed at 9:16 p.m.

ITEM 9:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen apprised the Board by stating the office was having difficulties in receiving payments from Mr. Preisser's water accounts. However, payments have now been received in full and he does not anticipate any contact with Mr. Preisser.
- The City of Colorado Springs had advised the District they were having difficulty maintaining its street lights because they were lacking the monetary funds. However, they now have found the funds to maintain the District's street lights.

ITEM 10:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands (see attached). Water demands for October were 2.588 mgd compared to October, 2007, of 2.794 mgd and 1.740 mgd for October, 2006. Pikes Peak Wells produced 819 acre feet of 840 acre feet total which equals 97% capacity. Tipton Well has produced 225 acre feet of 225 acre feet total. Guthrie flow is off; it received 175 acre feet of the total of 175 acre feet allowed. CSU's flow is still off as it has not been turned back on since August 14. Total of all sources for peak demand is 1,592 acre feet. With 1571 acre feet consumed, this equals 21 acre feet, or 1.3% remaining. This will run out in the next month.
- Currently the District is in the non-irrigation season which is considered the Winter Stage.
- Water leak season is not quite here yet, but the District has had two water service leaks thus far, one being a leak on the copper service at Antelope Ridge, and the other a corroded tapping saddle on Allens Park Dr.

- Mr. Sintas introduced Mr. Drennan who provided to the Board the attached statement of changes within the District's Ordinance 83-0100 relating to the Districts EPA-approved pretreatment program. He outlined the proposed changes for the Board's review and requested approval of the same.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE STATEMENT OF BASIS FOR PROPOSED CHANGES TO ORDINANCE 83-0100 OF THE DISTRICT'S PRETREATMENT PROGRAM, AS AMENDED, TO BE STATED IN THE DISTRICTS BYLAWS. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 12:

⇒ Golf Course, Pro Shop, and Maintenance

- Because of the anticipated lengthy Budget Hearing and Regular Meeting scheduled for the evening, Mr. Petersen advised Mr. Laxson and Mr. Rainford no reports would be required at this time.

ITEM 11:

Old Business

There was no old business to report at this time.

ITEM 12:

⇒ New Business

- Mr. Petersen wanted to bring to the attention of the Board the upcoming Christmas Party to be held at the Radisson Inn on South Powers Blvd. on December 19, 2008. More information will be forthcoming in the next month.
- Mr. Schubert wanted to extend a special invitation to all to attend his 60th wedding anniversary celebration which will be held at the Ellicott School on December 7, 2008, at 2:00 p.m.

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 9:31 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 10:00 p.m.

Mr. Petersen stated that there was nothing to report from the executive session; that all information given was updates on pending legal matters.

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 10:03 p.m.

Gayle Jones, Treasurer

Board Members

Term Expires

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

May, 2010
May, 2112
May, 2010
May, 2010
May, 2112