

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

December 9, 2008

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, December 9, 2008, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Ted Schubert	Robert Lovato
Steve Hasbrouck	Gayle Jones

OTHERS PRESENT

Kip Petersen	Sandy DeCarolis
Dian Hardekopf	Brian Beaudette
Jim Culichia	Len Meyer
Art Sintas	Mike Corder
Ed Meyer	Todd Laxson
Sara Howard	Griff Rainford
Mark Cuchiara	Pete Heidebrecht

OTHER GUESTS SIGNING ATTENDANCE LOG

Jim and Judy Burnside	Lynne Bliss
Mary Hernandez	Jan Olson
David and Ruth Hacker	Jon Maroon
Terry Shaw	Karl Raymond

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 Directors were present with the exception of Mr. Anderson, who submitted his resignation as a Board Member, effective November 26, 2008.

ITEM 2 and 3:

Mr. Schubert asked if there were any changes or amendments that needed to be made to the agenda. Mr. Hasbrouck made a motion requesting inclusion of an agenda item to nominate a new Board Member on the Board of Directors to replace Mr. Anderson. It was Mr. Schubert's desire to fill the position immediately; however, Mr. Lovato believed it was in the best interest of the District to allow those interested in the position to first provide a letter of interest. Mr. Petersen stated three individuals thus far had provided letters of interest; however, there would be no formal announcement of the position. He earlier provided to the Board a recommendation of how the Board should proceed with filling the position and read Mr. Anderson's resignation letter dated November 26, 2008. After further discussion, the first motion died for lack of a second. Ms. Jones asked the board to act swiftly to refill the position by scheduling a special meeting on January 6, 2009.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF DECEMBER 9, 2008. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

Mr. Schubert, noting the time of 5:40 p.m., handed a letter to Ms. Hardekopf and then to the Board and staff present submitting his resignation as President of the Board, effective immediately. As Mr. Schubert handed the gavel to Vice-President Mr. Hasbrouck, Mr. Petersen read Mr. Schubert's resignation letter. As it was Mr. Schubert's wish to have another Board Member in place before he resigned, and he realized those developments were not going to happen in the evening's meeting, he proceeded with his plans to immediately resign. A somber crowd wished Mr. Schubert well as Mr. Hasbrouck took the seat of President of the Board.

ITEM 4:

The Minutes of the Regular Meeting of November 11, 2008, were reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 11, 2008. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

ITEM 5:

⇒ Budget Hearing – 2009 Budget Year

*****MOTION*****

MR. LOVATO MADE A MOTION TO OPEN THE BUDGET HEARING TO THE PUBLIC FOR REVIEW OF THE 2008 REVISED BUDGET AND THE 2009 BUDEGET. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

- As a result of higher-than-anticipated costs of drilling and installation of the infrastructure for a new well to provide raw water for the irrigation of the Golf Course, Mr. Petersen advised the Board there was a need to make an end-of-the-year budget adjustment and therefore needed to revise the 2008 budget through the #08-06 Resolution for Supplemental Budget and Appropriations for 2008 (see attached). The Board had no questions or concerns regarding this 2008 budget adjustment.
- Mr. Petersen then provided, and read to the Board, his 2009 Budget Message (see attached) stating, although there were some minor changes to the 2009 Budget from the review in November; they were minimal.
- Mr. Lovato asked about the out-of-district water rates for construction meters and was told the rates were increased from \$3.81 to \$6.54 per unit. Mr. Petersen believed that because of the 35% jump in 2009 water rates, it would have been more viable to slowly increase those rates each year then make a drastic increase in rates for next year. Mr. Petersen stated he preferred not to subject an increase to customers each year while at the same time be faced with mandatory water restrictions the past couple years. He applauded the efforts of the staff in accomplishing a 1% below the 2008 Budget, and Mr. Lovato concurred.
- When Mr. Hasbrouck asked if there were any comments from the audience, Karl Raymond asked how the District's rates compared with those of Colorado Springs Utilities. Mr. Petersen responded that the District's rates were still below CSU's. Mr. Raymond also asked how the public got notified on budget discussions if they didn't use the web site, and Mr. Petersen stated one avenue was through the District's newsletters. A suggestion was made to put those notices in *The Gazette*, and Mr. Petersen felt *The Gazette's* publishing rates were too expensive. It was stated that all legal publications were placed in the Daily Transcript.

- Mr. Hasbrouck requested a motion to formally end the Public Hearing of the 2009 Budget Hearing.

*****MOTION*****

MR. LOVATO MADE A MOTION TO CLOSE THE BUDGET HEARING TO THE PUBLIC. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

ITEM 6:

⇒ Adoption of Budgets

- Mr. Petersen read 08-06 Resolution for Supplemental Budget and Appropriation and requested the Board to adopt the same.

*****MOTION*****

MR. LOVATO MADE A MOTION TO ADOPT 08-06 RESOLUTION FOR SUPPLEMENTAL BUDGET AND APPROPRIATION AS READ. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

- Mr. Petersen read 08-07 Cherokee Metropolitan District Appropriation Resolution and requested the Board to accept the same.

*****MOTION*****

MS. JONES MADE A MOTION TO ACCEPT 08-07 CHEROKEE METROPOLITAN DISTRICT APPROPRIATION RESOLUTION FOR THE BUDGET YEAR 2009 AS READ. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

ITEM 7:

⇒ Public Comments

Mr. Hasbrouck asked if there were any members from the audience who wished to speak.

- Mr. Raymond asked the Board, about the water rights purchase of the 28 acre feet from the developer who was not using the water and was then sold to the District, how the District could legally purchase back water that can't be pumped. Mr. Culichia responded to Mr. Raymond stating the 28 acre feet purchased, was not part of

the water referred to within the wells 1-8 case. The water that was purchased back was part of the Kane water rights that is fully exportable and can be purchased for development or used by the District

- Mr. Raymond stated he had observed Colorado Waste Connection retrieving hydrant water from the District's fire hydrants approximately three to four times a week, and provided pictures taken from his camera observing same. Since this was initially determined a violation of water rights, the District will proceed to investigate his observation.
- Ms. Olson made a comment, directed to Mr. Laxson that her daughter enjoys the Linker's program and wanted to thank the Golf Course for providing these opportunities and wanted to thank the District as her daughter just received a new driver provided by the Linkers.

ITEM 7:

⇒ Legal Report – Mr. Jim Culichia

- Mr. Culichia updated the Board on the Replacement Plan stating a status conference on the Replacement Plan was held in Denver December 5, 2008, and a two-week trial is set for June 8-19, 2009. New deadlines are in place, and there is a huge amount of work and documentation that needs to be done before that time. March 20, 2009, is the deadline for the opposition to produce injury; April 20, 2009, is the deadline for the District's rebuttal argument, which will culminate in a settlement or a two-week trial in June. Ms. Jones asked if this was part of the model which was presented to the UBS meeting, and Mr. Culichia said it was. He received good reviews from the public on the informative presentation. Ms. Jones asked what the worst scenario would be if the District didn't win the trial, and Mr. Meyer stated that it would mean the District wouldn't have any new water to extract however it would help the water table and help in producing the water needed from our current wells. With two new Board Members coming on board, Mr. Petersen affirmed he would apprise them up to present and would provide a matrix to the Board on a monthly basis to provide developments and status of ongoing and planned projects.
- Mr. Culichia updated the Board on the Denver Basin Lease case by stating the trial has been set for March 2-8, 2009. Deadlines are approaching on the District's expert witness report and depositions. The Depositions will begin in the next couple of weeks. He feels confident the interpretation of the leases will be upheld, although

an appeal is possible by the party that loses and that appeal would go to the Ground Water Commission; and a further appeal would be heard by the District Court Judge in Colorado Springs. As an aside, Mr. Lovato mentioned he has been attending Woodmen Hill's Board of Director's meetings, not representing Cherokee, but as a resident of Woodmen Hills.

ITEM 8:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Glacier Construction's 5th pay request has been received. It reflects \$5,673,529.26 earned to date. Retainage of 10% at this time is \$567,352.93. Taking both the retainage and the prior payments into account, the net amount due the Contractor is \$703,457.88. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE PAY REQUEST NO. 5 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$703,457.88. SECONDED BY MR. LOVATO. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

- Work is progressing on several fronts of the WWTP, including electrical conduit and aerobic digester basins' base slabs installations and wall construction for the aerobic digester basins. Wall construction continues on SBR basins 3 and 4. SBR basins 1 and 2 are near completion on concrete work. Flow equalization basins' base slabs have been completed, and wall construction continues. The day tanks concrete work has been completed, and foundation work has been initiated on the digester and electrical buildings.
- The Water Pollution Control Revolving Fund Loan Request No. 11 has been prepared, and it requests a total of \$456,233.41 to be remitted to the District to cover eligible costs for November. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #11 BACK TO THE DISTRICT IN THE AMOUNT OF \$456,233.41. SECONDED BY MR. LOVATO. THERE WAS NO

FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

- Mr. Lovato asked if Meridian Service District had any other intergovernmental agreements with other Districts on this project, Mr. Meyer stated that Cherokee is working strictly with Meridian and is not aware of any IGA's that Meridian has consummated with other Districts.

At this time, a short break was requested so Mr. Hasbrouck could provide signatures on the above contracts. The meeting recessed at 6:37 p.m.

The regular meeting resumed at 6:50 p.m.

ITEM 9:

⇒ Manager's Report – Kip Petersen

- Before Mr. Petersen provided his Manager's Report, he wanted to revisit the process of vacancies and hiring of the Board of Directors. Letters of interest will be honored through the end of the day of December 26, 2008. Subsequent interviewing and appointment of the new Directors will take place at a Special Board Meeting on January 6, 2009, beginning at 5:30 p.m. Mr. Petersen requested a motion to approve these details.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE DECEMBER 26, 2008, DEADLINE FOR APPLICATIONS FOR THE BOARD MEMBER VACANCIES AND SUBSEQUENT INTERVIEWING AND HIRING ON JANUARY 6, 2009. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

- Mr. Petersen addressed a topic that he, Mr. Sintas and Ms. Hardekopf have been approached by customers within the District owning multiplexes with one meter requesting consideration to have individual metering installed in their units or recalculations of sewer fees to eliminate the number of occupancy times the monthly cost on the sewer fees that are charged. After considerable discussion, it was determined that the rates would remain the same at this time. Another alternative afforded to the owner would be that of re-plumbing the structure of the units. However, It is believed by doing this, the cost could reach upwards of 10K per four-plex. All new four-plexes currently built in the District now require the installation of four meters.

ITEM 10:⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands. Water demands for November were 1.7 mgd compared to last year of 1.740 mgd. The District is now relying on water from the Sweetwater Well.
- A bad water leak, occurring under the asphalt on Poteae Circle, cost the District approximately \$5,000 in repairs just for the asphalt replacement.

ITEM 12:⇒ Golf Course, Pro Shop, and Maintenance

- Mr. Laxson provided his monthly report to the Board (see attached). Year-to-date rounds of golf are down about six percent, which is a reflection of the inconsistent weather experienced the past spring. YTD grill sales are 16% ahead of last year, and YTD driving range revenue is ahead four percent from last year.
- After discussions with Mr. Petersen, the weekend prime-time Regulation 9 hole green fees will be raised to \$14.50 from \$14.00. The prime-time green fee is in effect Friday – Sunday from May 1–October 31, 2009. The golf cart fee will increase from \$13.00 per nine holes to \$14.00. Price changes are also planned for some of the grill menu. Most of the items will see a price increase of about 25 cents.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the November maintenance of the Golf Course (see attached). November was busy for the Golf Course with above-average temperatures and projects getting completed. Tee boxes on 1, 6, and 9 on the Par 3 were rebuilt and leveled. The green side bunker on 8 was reshaped and will be finalized in the spring. The irrigation system was decommissioned and leaf removal performed. Winter cups and tees have been placed to protect the course during the non-growing season.

ITEM 11:Old Business

There was no old business to report at this time.

ITEM 12:

⇒ New Business

- Mr. Petersen presented the new Proposed Meeting Schedule for 2009 regular board meetings and requested approval of the same. Meetings will continue to be held on the second Tuesday of each month beginning at 5:30 p.m.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE AND POST THE BOARD MEETING DATES FOR 2009 FOR THE CHEROKEE METROPOLITAN DISTRICT. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

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. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

A short break was taken at 7:08 p.m.

Executive Session began at 7:15 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. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).

The Regular Session began at 8:14 p.m.

Mr. Petersen stated that updates on pending legal matters were the only items discussed in the executive session.

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 8:15 p.m.

Gayle Jones, Treasurer

Board Members

Steve Hasbrouck, President
Gayle Jones, Secretary
Robert Lovato, Director

Term Expires

May, 2012
May, 2010
May, 2012