

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

February 12, 2008

MINUTES

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

BOARD OF DIRECTORS PRESENT

Ted Schubert	Robert Lovato
Gayle Jones	Dave Hacker
Andy Anderson	

OTHERS PRESENT

Art Sintas	Len Meyer
Dian Hardekopf	Todd Laxson
Jim Culichia	Griff Rainford
Ed Meyer	Pete Heidebrecht
Sara Howard	

OTHER GUESTS SIGNING ATTENDANCE LOG

Pastor John Fuller	Bill Beahan
Mary Hernandez	Jan Olson
Jim and Judy Burnside	Chloe Olson
Caecilia Delgado	Wade Antener
Steve Hasbrouck	Bill McAfee

ITEM 1:

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

Ms. Howard 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 FEBRUARY 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 January 8, 2008, were reviewed. No changes were noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE REGULAR MEETING OF JANUARY 8, 2008. SECONDED BY MR. ANDERSON. 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. Mr. Beahan was the only one to raise his hand. He wanted to inform the Board that he had submitted a letter of self nomination for the upcoming Board of Directors' election.

Mr. Beahan wanted to thank the attorneys for giving more attention and detail to legal matters by using diagrams and explanations in educating those in attendance. He was appreciative of that in last month's meeting.

There were no further comments or questions by the public.

ITEM 6:

⇒ Legal Report – Mr. Jim Culichia

- Mr. Culichia provided to the Board the Water and Sewer Service Agreement between the District and Care and Share, Inc. (see attached) which described Care and Share's purchase of 1.14 acre feet of water, a portion of which is from the 200 acre feet of water known as the Kane Water Rights. Upon review, he requested the Board to authorize Mr. Schubert to approve and sign this Agreement.

*****MOTION*****

MR. HACKER MADE A MOTION TO AUTHORIZE MR. SCHUBERT TO APPROVE AND SIGN THE WATER AND SEWER SERVICE AGREEMENT BETWEEN CHEROKEE METROPOLITAN DISTRICT AND CARE AND SHARE, INC. SECONDED BY MR. ANDERSON. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Culichia stated that Pastor Fuller, who was in the audience, was the recipient of one of the water commitments waiting for development within the District. Pastor Fuller will be purchasing approximately 11 acre feet, and Mr. Culichia encouraged the Board to move forward in establishing another water and sewer service agreement similar to the aforementioned agreement with Care and Share. The Board had no objection and instructed legal counsel to move forward.
- Mr. Culichia reported that Alan Hill is close to completion on the determination of Denver Basin waters within the District boundaries.
- March 20, 2008, is the date of a scheduled hearing in District Court to have the Restraining Order lodged by Mr. Whatcott against Mr. Petersen set aside. Some attendees in the evening's meeting along with Board and Staff members will be testifying on Mr. Petersen's behalf.
- Mr. Culichia explained that Cherokee will need to file an amendment to paperwork that was filed previously to make the water absolute on the Sweetwater wells. Mr. Culichia stated that when Cherokee filed for the absolutes that the amounts were too low and need to be adjusted; also, well 17 now that it has been on line, will need to have the water filed for absolute.

- The District no longer is under contract to purchase water from the Goss family. The earnest money has been returned to the District, and there has been no further discussion.
- Mr. Culichia updated the Board on the Denver Basin determination of water rights case. Cherokee is now being sued by ten to twelve objectors, including Mr. Shaw and Mr. Booker, who are arguing the District's leases do not include rights to the Denver Basin. Cherokee will have to prove the leases include the Denver Basin waters. This case will be heard in District Court in El Paso County by District Court Judge Schwartz. Once a ruling has been made, if in Cherokee's favor; Cherokee will go back to the Ground Water Commission for the determination of water rights under these leases or if not in favor may need to appeal. Cherokee will pursue the determination of water under the Stoen lease as they are not an objector in this case; this would cover roughly 600 acres of land.
- The replacement plan addendum is about completed and should be filed with the state within a couple of weeks.

ITEM 7:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Mr. Meyer stated that there were photos of the basin area in the Boards packets; these photos were provided by Mr. Heidebrecht. Velocity Constructors' tenth pay request has been received. With retainage at 5%, the net amount due the contractor is \$115,152.96. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 10 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$115,152.96. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- The project is 93% complete, and the perimeter fence has been installed. The RTU approved last month has been received and is being installed.
- Design work on the WWTP is nearing completion, and specification preparation is in progress. GMS hopes to submit the plans and specifications to the Health Department and Regional Building in late February.

- Hume Constructors has undertaken the electrical work on the Golf Course irrigation well project, and a final electrical inspection has been requested. The final pay request and release of retainage will be processed in March. Actual startup services will occur when pumping from the well can be conducted and the pond has been cleaned. Mr. Hacker asked Mr. Meyer that, once the pond was professionally cleaned, would it remain somewhat clean for a long period of time. Mr. Meyer responded that it should remain clean and in good shape for many years, as the resurgence of fresh water in a newly cleaned pond would prevent measurable amounts of sludge and debris to settle.
- Mr. Meyer provided to the Board the second draw request on the \$15 million dollar Revolving Fund Loan. GMS has prepared the second draw for reimbursement back to the District which totals \$749,317.16, and is requesting this amount to be approved.

*****MOTION*****

MS. JONES MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF REQUISITION #2 BACK TO THE DISTRICT IN THE AMOUNT OF \$749,317.16. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. 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 6:16 p.m.

The regular meeting resumed at 6:25 p.m.

ITEM 8:

⇒ Manager's Report – Art Sintas

- As Mr. Petersen was attending a Sustainable Water Resource Conference in Reno, Nevada, Mr. Sintas presented to the Board a packet of materials (see attached) on Mr. Petersen's behalf. Included in that packet was a January Financial Report, the post card announcement mailed to customers regarding the election, some reading material obtained from *The Pueblo Chieftain* Online and a document obtained from the "Century Chest", a recently opened time capsule on the Present Water Supply of Colorado Springs, written back in 1901.

- Mr. Petersen passed along a message telling everyone hello and that he missed everyone and was absolutely miserable.

ITEM 9:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands (see attached). Demands for January were 1.626 mgd compared to the same time last year of 1.600 mgd. The Sweetwater Wells are keeping up very well with water demands.
- Water leak season is upon the District with five additional water leaks keeping the District busy with repairs in January: 1133 Cree Drive, 6717 Galley Rd., 6020 Galley Rd., 1150 Chiricahua Dr., and the vicinity of Hathaway Dr. and Mission Rd. With the implementation of the 2008 Budget, ten fire hydrants will be replaced starting this month. Ms. Jones stated that, at the time of signing paychecks, she noticed that approximately 95% of the overtime pay approved was from the result of water leaks.
- Two proposed changes for the non-irrigation season in the District's Water Conservation Plan were requested for approval by the Board. The first would be watering at the customers' discretion instead of the weather having to be above 40 degrees and during the scheduled time of 10 a.m. to 3 p.m. The other change would be for watering to be permitted twice a month instead of just once a month. Mr. Sintas asked the Board to approve these changes for immediate implementation, and the changes would be posted on the District's website.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE ABOVE MENTIONED TWO CHANGES FOR THE NON-IRRIGATION SEASON IN THE DISTRICT'S WATER CONSERVATION PLAN. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- The District has responded with the compliance deadline as outlined in the Cease and Desist Order. Three floating aerators on the Number 3 lagoon will be implemented to increase the dissolved oxygen. The equipment for this process has been ordered, and Mr. Sintas hopes this will be operational within six to eight weeks.

ITEM 10:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson provided his monthly report to the Board (see attached), and stated there was one day in the month of January whereby the entire facility was open.
- The Grill made a little more than three times the revenue it made last January, due partly to the food and service upgrade and the new Grill schedule. The major portion of the Golf Shop capital was realized late in January with the addition of five new golf carts. Some of the oldest carts were traded in for 2007 models with a full manufacturer's warranty.
- The Men's Association Schedule has been finalized, and copies of the tournament schedule are available in the Golf Shop. Pikes Peak Junior Golf has put their calendar together for the 2008 season and it includes two stops at the Golf course. The Golf Channel has already requested June 14th as the date for their Drive Chip and Putt Local and Regional Contest.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the January maintenance of the Golf Course (see attached). Golf carts are being serviced, and tree removal and pruning is ongoing. Tolin Mechanical installed a new furnace in the shop office.
- Lake repairs are slow in coming due to the weather. Fairway mower and greens mowers are serviced and ready for summer duty.
- February should bring about the opening of the course and warmer weather towards the end of the month.

ITEM 11:

⇒ Old Business

There was no old business to report.

ITEM 12:

⇒ New Business

- Mr. Sintas read, and requested the Board to approve, the attached Resolution No. 08-03 designating Mr. Schubert, Mr. Anderson, Ms. Jones, and Mr. Petersen as authorized individuals for the Colorado Water Resource and Power Development Authority Loan Agreement. Ms. Hardekopf explained that the paperwork on file

still showed the previous Board Officers as the authorized individuals and needed to be updated.

*****MOTION*****

MS. JONES MADE A MOTION TO ADOPT RESOLUTION NO. 08-03 DESIGNATING AUTHORIZED INDIVIDUALS FOR THE COLORADO WATER RESOURCE AND POWER DEVELOPMENT AUTHORITY LOAN AGREEMENT. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

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

Executive Session was entered into at 6:55 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 MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

The Regular Session began at 7:28 p.m.

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 7:30 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