

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

May 13, 2008

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, May 13, 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	Pete Heidebrecht
Dian Hardekopf	Len Meyer
Art Sintas	Griff Rainford
Jim Felt	Bryan English
Sara Howard	Todd Laxson
Ed Meyer	Robyn Herzog

OTHER GUESTS SIGNING ATTENDANCE LOG

William Beahan	Chloe Olson
Mary Hernandez	Jan Olson
Dave DeHart	Ken and Rita Martinez
Steve Hammers	Heath Herber

ITEM 1:

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

ITEM 2:

Mr. Schubert requested Ms. Hardekopf to conduct the oaths of office for the two newly elected Board Members. Ms. Hardekopf asked Mr. Hasbrouck and Mr. Lovato to stand and raise their right hands and read together and affirm the Board of Directors' Oath of Office.

ITEM 3:

Ms. Hardekopf called roll call of the Board of Directors. All Board Members were present.

ITEMS 4 AND 5:

Mr. Schubert asked if there were any changes or amendments that needed to be made to the agenda. There were none noted.

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

**MR. LOVATO MADE A MOTION TO APPROVE THE AGENDA AS WRITTEN FOR THE REGULAR MEETING OF MAY 13, 2008. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 6:

⇒ Appointment of Board Officers

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

**MR. LOVATO MADE A MOTION TO RETAIN CHAIRMAN SCHUBERT AS THE BOARD OF DIRECTORS' NEW PRESIDENT FOR THE UPCOMING TERM ON THE BOARD. SECONDED BY MS. JONES. THERE WERE NO OTHER NOMINATIONS. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

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

**MS. JONES MADE A MOTION TO ELECT MR. HASBROUCK AS VICE PRESIDENT ON THE BOARD OF DIRECTORS FOR THE UPCOMING TERM. SECONDED BY MR. ANDERSON. THERE WERE NO OTHER NOMINATIONS. MR. HASBROUCK-YES. MR. LOVATO-NO. MR. ANDERSON-YES. MS. JONES-YES. MR. SCHUBERT-YES. MOTION CARRIED (4-1).**

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

**MR. ANDERSON MADE A MOTION TO RETAIN MS. JONES AS SECRETARY/TREASURER ON THE BOARD OF DIRECTORS FOR THE UPCOMING TERM. SECONDED BY MR. HASBROUCK. THERE WERE NO OTHER NOMINATIONS. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 7:

The Minutes of the Regular Meeting of April 8, 2008, were reviewed. Mr. Schubert stated that, since he wasn't present at the last month's Board meeting, he had asked Vice President Anderson to give thanks to Board Members Mr. Lovato and Mr. Hacker. Since Mr. Lovato hadn't arrived yet at the meeting, his name was unintentionally overlooked; and Mr. Schubert asked that his name be added to the second paragraph on page 2 of the Minutes of the April, 8, 2008, meeting.

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

**MR. LOVATO MADE A MOTION TO APPROVE THE MINUTES, WITH THE REQUESTED AMENDMENT, OF THE REGULAR MEETING OF APRIL 8, 2008. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 8:

⇒ Public Comments

- Mr. Schubert was impressed with the voting turn out from the recent election, as there were over 500 ballots cast. Mr. Petersen and Ms. Jones commended Ms. Hardekopf on her hard work, professionalism, and neutralism in coordinating a smooth election process.
- Ms. Hernandez commented that she was impressed in the turn out and the community involvement. As a businessman in the District, Mr. Hammers stated he was glad he was able to vote and commended the Board in giving the business owners of the District more opportunity to voice their opinion. Mr. Beahan added the District, and also the Cimarron Hills Fire Department, was founded by local businessmen in the area.

There were no other public comments.

ITEM 9:

⇒ Legal Report – Mr. Jim Felt

- Before Mr. Felt addressed the Board with his report, he offered his congratulations to the District's new Board of Directors and Mr. Schubert's reinstatement.
- Mr. Felt reported the Denver Basin lease cases are set for oral arguments on May 28, 2008, in El Paso County District Court. On behalf of newcomer Mr. Hasbrouck and those in attendance, he gave a brief historical synopsis of the Denver Basin lease cases.

- The Poleson (Gunzelman) Well contract is still pending as the landowner is acquiring an accurate easement on the well. The Upper Black Squirrel Water Management District has granted an extension of approval process. This purchase should give Cherokee an additional 76 acre foot of water for District use.

ITEM 10:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Velocity Constructor's 13<sup>th</sup> pay request has been received and is effective through April 26, 2008. With retainage at 5%, the net amount due the contractor is \$39,034.70. GMS recommends approval of the pay request in that amount.

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

**MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 13 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$39,034.70. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Mr. Meyer provided to the Board the fifth draw request on the \$15 million dollar Revolving Fund Loan. This money has already been spent by Cherokee and is now being reimbursed back to the District. The total for this fifth draw is in the amount of \$88,699.80, and GMS is requesting this amount be approved.

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

**MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF REQUISITION #5 BACK TO THE DISTRICT IN THE AMOUNT OF \$88,699.80. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- GMS is continuing to work with the Pikes Peak Regional Building Authority (PPRBA) on the approval of the ten sets of drawings. Revisions and clarifications that have been provided. The ten sets have been formally resubmitted for review and the final items to be reviewed are primarily electrical and mechanical related.
- Ongoing discussions have taken place with Dave Knope, the District Engineer for the Colorado Department of Public Health and

Environment's; review of the plans and specifications should be completed in the immediate future.

- The project has been officially advertised and out for bid starting May 5<sup>th</sup> with subsequent advertisement dates of May 9, May 16, and May 23. The bid opening will be held on June 5, 2008, at 3:00 p.m. at GMS's offices. A complete evaluation of the bids will be compiled by GMS. A presentation and awarding of the bid will take place at the Board's regular scheduled June 10<sup>th</sup> meeting. This will place GMS on schedule with the overall project scheduled as updated December, 2007. To date, eight general contractors have already secured drawings which suggest a competitive bidding environment.

ITEM 11:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen reported to the Board the substitute water supply plan for the Golf Course is close to approval. The appropriate reports have been filed to change the well from a monitoring well to a permanent well.
- Mr. Petersen has requested from the City of Colorado Springs to have access to the remaining 285 acre feet of water purchased last year from Pueblo West.
- A draft lease has been submitted to Doug Woods, with GTL Development Inc., to lease 200 acre feet of the Guthrie water. This lease is similar to the past year with the exception of a small monetary increase. Mr. Felt suggested the Board make a motion to authorize Mr. Petersen to sign the lease when it is ready so as not to have to wait until the June Board Meeting.

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

**MR. LOVATO MADE A MOTION TO AUTHORIZE MR. PETERSEN TO SIGN THE GUTHRIE WELL LEASE UPON CONTRACTUAL COMPLETION. 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 gave a brief report on the Pikes Peak Regional Water Authority's, of which Cherokee is a member of, project in which they are working with Mark Morley on a water delivery system called the Stonewall pipeline that would be coming up from the Arkansas. This project is in the "concept

stage” but could bring water up to many District’s, including Cherokee, within the next 10 to 15 years.

- With the Replacement Plan having been resubmitted, Mr. Petersen has asked for a status from the State and a request for a meeting with the State Staff to get things moving quicker.
- Mr. Petersen was glad to report the recent restraining order placed upon him by Mr. Whatcott has been officially vacated. Cherokee is, however, still considering legal action against Mr. Whatcott.

At this time, Mr. Schubert asked for a five-minute break. The meeting recessed at 6:30 p.m.

The regular meeting resumed at 6:37 pm.

#### ITEM 12:

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

- Mr. Sintas provided an update on the District’s water demands (see attached). Demands for April were 2.285 mgd compared to the same time last year of 2.0 and 3.39 mgd for 2006.
- The Stage 2 Water Conservation Plan is currently in effect. To date, 76 watering violation warnings have been issued, with three second violations of \$50. Forty-two sod permits have been sold with May 15<sup>th</sup> being the purchase deadline.
- As a result of a request from a commercial customer, discussion ensued on possibly increasing the amount of sod from the 1500 square foot maximum for commercial and industrial lots. With business owners in the audience supporting the water conservation plans and xeriscaping efforts, it was determined to retain the maximum amount of sod for businesses (as well as residential) at 1,500 square feet.
- Mr. Lovato suggested the District consider another ‘town hall’ meeting to exhibit commercial landscaping. Mr. Petersen felt an offsite meeting would not be conducive for a town hall meeting.
- Approval has been received from the State Health Department to turn on the three aerators at the lagoons. They are now in operation, and the length of running time may reduce as the dissolved oxygen levels increase.

#### ITEM 11:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson provided his monthly report to the Board (see attached). The Golf Course is ahead of 2007 in range revenue, green fees, and merchandise sales. The driving range and merchandise sales are up over 25% from last year, and green fee traffic is up about three percent.
- The grill averaged more than \$345 per day with a total of \$10,353.87 for the month. That total is up an average of \$98 per day for the month compared to April, 2007.
- The majority of the Golf Course's afternoon leagues have started for the 2008 season. As the first USGA program (Colorado School for the Deaf and Blind) winds down, the second program of the year, the Pikes Peak Linkers, has begun. This program, which runs through the end of July, will reach 200 junior golfers this summer.
- The Pro Shop will lose one afternoon staff person but will be bringing on new employees to not only fill the vacant position, but also to enhance the efficiency of its afternoon staff.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the April maintenance of the Golf Course (see attached). Soil temperatures were low in April, and while some green up took place, there was not a lot of growth along with it. Cold overnight temperatures also prevented watering most nights. By the end of the month, the greens and tees were starting to improve.
- In April, Golf Course employees rebuilt the fairway bunker on #Six and edged all bunkers. Greens were aerified, top dressed, and fertilized; and tree trimming was completed.
- Watering occurs on an as-needed basis during night time hours, and the Course used the same amount of water as last April, which was 52% less than April, 2006.
- Two additional seasonal employees were hired in late April.
- As an addendum to Mr. Laxson's report, Mr. Petersen reaffirmed his commitment and long-term goal to the Board of his desire, and intentions, of making the Golf Course a profitable organization

ITEM 12:

⇒ Old Business

There was no old business to report.

ITEM 15:

⇒ New Business

- Approximately one month ago, Mr. Petersen was contacted by Mr. Heath Herber and given an option to pursue a contractual resale of water back to the District from the CAR 3 Investment, LLC. This would entail a buyback at cost, plus interest, of water originally committed to Mr. Herber. This opportunity would further uphold a commitment of water to three business owners in the District, Pastor John Fuller, Mr. Larry Karnes, and Mr. Tony Colon and still leave 14 acre feet of water available for District projects. Mr. Petersen advised the State Engineer's Office and County Attorney must still approve this sale, and the County Attorney was to have an answer back to the District by the end of the week. Mr. Felt encouraged the Board to ratify this sale as he felt very comfortable the County Attorney would approve of this venture.

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

**MS. JONES MADE A MOTION TO RATIFY THE CONTRACT BETWEEN THE DISTRICT AND CAR 3 INVESTMENT, LLC . SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Mr. Felt asked for Mr. Hasbrouck, and encouraged any others who wished to be involved, to stay after the meeting so he could brief Mr. Hasbrouck on the Denver Basin water rights, the Golf Course Well, the water augmentation plan, and other District current events.

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 7:09 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. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

The Regular Session began at 7:24 p.m.

Mr. Petersen explained that no decisions were made in the Executive Session, that only legal issues and personnel matters were discussed.

At this time Mr. Felt gave a presentation and overview for the benefit of newly elected Board Member Mr. Hasbrouck. Mr. Felt covered water rights, Denver Basin formation, water augmentation plans, and the golf course well drilling.

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 8:00 p.m.

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Gayle Jones, Secretary/Treasurer

Board Members

Term Expires

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