

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

May 8, 2007

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, May 8, 2007, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Ted Schubert	Dave Hacker
Andy Anderson	Robert Lovato
Gayle Jones	

OTHERS PRESENT

Kip Petersen	Heath Herber, Westerra Development
Art Sintas	Michael D. Rasdall, Resident
Dian Hardekopf	Chloe (Jane) Olson, Resident
Jim Felt	Karl Raymond, Resident
Sara Howard	Linda McClaren, Resident
Sandy DeCarolis	Tina Hudson, Resident
Lily Baker	Kent Tamsen, Resident
Brian Beaudette	Chief Robert Helton, Cimarron Hills Fire Dept.
Ed Meyer	Jon Maroon
Bill Beahan	

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 were present.

ITEMS 2 AND 3:

Mr. Schubert asked the members of the Board if there were any changes or amendments that needed to be made to the Meeting's Agenda for May 8, 2007. No changes were noted.

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

**MS. JONES MADE A MOTION TO APPROVE THE AGENDA FOR MAY 8, 2007, AS WRITTEN. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 4:

The Minutes of the Regular Meeting of April 10, 2007, were reviewed. No changes were noted.

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

**MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE REGULAR MEETING OF APRIL 10, 2007. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 5:

⇒ Public Comments

- Public comments for items not on the agenda were invited. There were several shows of hands.
- Mr. John Fuller, Pastor of Harbor Lights Church, stated he needed more than two minutes to make his comments. He didn't know if there were any changes in the District's water resources, but he said he has struggled approximately one and half years to obtain water for his housing development which is planned adjacent to Harbor Lights Church. Because Harbor Lights Church and this 24-unit housing development require a combined ten acre feet of water, he wanted to know if there were existing projects in the District that were guaranteed for available water but were not needed or were not being used within the next ten years. Mr. Petersen advised that the Poleson Wells would be able to provide such water, but it wouldn't be available for at least eight or nine more months; as the water needed for Pastor Fuller's development would have to be dedicated and couldn't be obtained from leased water. Mr. Schubert interjected that this should be on the agenda for the next month's Regular Meeting. Mr. Fuller also stated that he had discussions with Mr. Sintas and the late Mr. Loosley concerning a commitment for water, but he had received no letter of commitment from them. Mr. Sintas did explain that Mr. Fuller is on the last of the list for available water. Pastor Fuller stated he had established an "agency" with Mr. Sintas and knew, in his heart, there was water available. He said there had to be a way to obtain some water, and that there are people

who have a commitment letter who have been waiting for water for ten years. Mrs. Jones requested Pastor Fuller to clarify what he meant when he said he had established "agency". Again, Mr. Schubert stated an Agenda item needs to be placed on the next Board meeting to discuss this more thoroughly. Mr. Meyer suggested to Pastor Fuller to make a copy of the letter he received from Mr. Loosley.

- Ms. Tina Hudson complained that, every night at 7 p.m., Evans Elementary School was watering their sod.
- Mr. Karl Raymond wanted to be assured that "Fuller being on the top of the list" would not affect the current water supply in the District.

There were no other comments or questions by the public.

#### ITEM 6:

⇒ Treasurer's Report

There was no Treasurer's Report at this time.

#### ITEM 7:

⇒ Legal Report – Mr. Jim Felt

- Mr. Felt reported there has been established, a one-year lease with the District and the Woodmen Hills Metropolitan District to acquire 238 acre feet of water to help with the District's irrigation needs this upcoming summer. Woodmen Hills does, however, want to inspect the connection point when the District connects to their water resource. This water is resourced from the Guthrie Wells and will provide an additional '90 days' of additional water which is expected to be online approximately July 28.
- The District is also hoping to obtain additional leased water that would be wheeled through the City of Colorado Springs Utilities. This would only work if the delivery of water will be configured at a reasonable price and negotiations with the City can take place expeditiously, as there has been some delay in negotiations with the City. If need be, Mr. Felt will appear next week in front of the City Council to discuss these delays as he feels the City staff is not cooperating to their full extent. Mr. Petersen stated he would be meeting with Mr. Vandeshear from the City Utility office on the Wednesday morning before the City Council meeting to start working on the negotiation process.

- Mr. Felt stated the water at the Tipton Wells would be online by July 28, 2007, soon after the drilling process is completed. This is permanent water for the District.
- Mr. Sintas stated that the cost to drill the well for the Golf Course would be around \$30,000 and hopes to have the drilling begin within a couple of weeks.
- Mr. Felt stated the Poleson/Gunzelman Well will be the next source of water for the District and will amount to approximately 87 acre feet. This water will be reserved for new commitments and hopefully will be available within the next nine months.

ITEM 8:

⇒ Engineering Report – Ed Meyer

- Mr. Ed Meyer referred to his Engineering Report Items (see attached). Mr. Meyer explained that Pay Request #2 from HD Supply Waterworks, Ltd., has been received. The gross amount earned through May 1, 2007, is \$1,408,128.34. With retainage at 5% (\$94,202.09) of the contract amount and taking into account the prior payment, the net amount due the Contractor is \$823,309.25. GMS, Inc. has recommended payment in that amount. Mr. Meyer stated that HD Supply Waterworks, Ltd., continues to work well with the contractor on the delivery of material. GMS has confirmed that the joints, when pushed home extend in the bell approximately 3-inches beyond the home mark. With this, HD has ordered 100 additional feet of 20-inch piping to ensure that adequate material will be made available to the Contractor. This additional piping will cost an additional \$2,275 and will show on the final clean up Change order with HD Supply.

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

**MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST #2 TO HD SUPPLY WATERWORKS, LTD., IN THE AMOUNT OF \$823,309.25. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Pate Construction has submitted Pay Request #2. It reflects work accomplished through April 30, 2007. The amount earned is shown at \$262,275.00. Taking 10% retainage into account (\$26,227.50) and the previous payment, the net amount due the Contractor is \$204,030.00. GMS recommends approval of the Pay Request in that amount. Mr. Meyer stated that they have four crews currently working on the project. At the close of the last pay period, approximately 65% of the total 24-inche pipeline had been

installed. Projections by the Contractor suggest their work will be completed sometime between August 1<sup>st</sup> and August 15<sup>th</sup>.

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

**MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST #2 TO PATE CONSTRUCTION, IN THE AMOUNT OF \$204,030.00. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Velocity Constructors' has been working on the site since April 18, 2007. With this, their first Pay Request has been received. It is effective through April 26, 2007, and shows \$91,417.00 earned. With retainage at 10% (\$9,141.70), the net amount due the Contractor is \$82,275.30. GMS has recommended payment in that amount. The stripping of the on-site topsoil has been completed. Major earthwork is programmed to begin in the immediate future on the construction of the 11 basins.

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

**MS. JONES MADE A MOTION TO APPROVE PAY REQUEST #1 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$82,275.30. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Design work is still pending, and the needed meeting between the District and Meridian to discuss flow equalization has yet to occur.
- The El Paso County Planning Commission heard the Site Location Approval Request for the 20-inch Pipeline and Recharge Facilities on April 17, 2007. Cherokee received unanimous board approval on the request; although Mr. Ronald Martin, who lives near the 24-inch interceptor sewer, was the only individual present who opposed the application. Another individual by the name of Mr. Moore, who lives on Drennan Road across the road from the 20-inch non-potable water line alignment, submitted a letter in opposition to the action. All other local residents across whose property the pipelines are being installed and who have communicated with GMS staff on-site have been very supportive and positive of the project and the nature of the work being undertaken.
- Mr. Meyer reported that approximately 30 area contractors and suppliers were notified of the availability of plans and specifications soliciting bids for the Tipton Transmission Line project. The project provides for a 60-calendar-day construction period. The bid opening was conducted at 3 p.m. on May 7, 2007, and five contractors responded to the request for bids. Bids ranged from

\$398,872.00 to \$660,799.37. Carrigan Excavating, LLC, was the low responsive bidder with a total base bid of \$398,872.00. GMS reviewed the bid and has recommended award of the project to Carrigan Excavating, LLC, in the amount of \$398,872.00.

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

**MR. ANDERSON MADE A MOTION TO AWARD THE BID FOR THE TIPTON TRANSMISSION LINE TO THE LOWEST BIDDER, CARRIGAN EXCAVATING, LLC, WITH A TOTAL BASE BID OF \$398,872.00. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- GMS, Inc.'s work on the Golf Course Irrigation Well project has tentatively been placed on hold pending drilling and test pumping of the well which will be located near the Middle Fork of Sand Creek. Once the well production data is secured, a determination will be made for where the water will be transmitted and work will continue.

ITEM 9:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen requested the Board to adopt Resolution 07-02 (see attached), which was a resolution establishing a requirement of payment of the District's attorneys' fees and costs and repair and restoration costs in matters involving violation of the District's rules and regulations or for other District enforcement actions. At this time Mr. Petersen read the preamble of the resolution and then explained that the District has needed a resolution of this type in place for many years.

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

**MS. JONES MADE A MOTION TO APPROVE, ADOPT AND SIGN RESOLUTION 07-02 AS READ. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Mr. Petersen advised the Board that three weeks ago he gave a presentation to the 5<sup>th</sup> grade class of Evans Elementary School, and that in the upcoming week he was going to be talk to a group concerning the recharge facility.
- Mr. Petersen and Mr. Sintas have also had the opportunity to attend the monthly meetings of the Upper Black Squirrel District, and is staying apprised, of developments involving the Upper Black Squirrel Water Management District.

ITEM 10:⇒ Water/Wastewater Report – Art Sintas

- Before Mr. Sintas presented to the Board his update on water demands and revision to the water conservation plan (see attached), he informed the Board of two employees recently hired in the District. Jeremy Pierce has been hired to assist the District in field-related work and Robyn Childers will assist in the office's front desk duties.
- Mr. Sintas was pleased to report that water demands for April, 2007, were still comparably low at 2.0 MGD to that of April, 2006 3.8 MGD. The District has used four percent of water available from the Pikes Peak Wells. Rainfall for April amounted to 1.77 inches. Watering violations issued to present consisted of 73 warnings and seven second violations of \$50. Total sod permits sold through May 8, 2007, were 69, and plot plans are now being required in order to purchase a sod permit. There have been numerous complaints regarding the maximum 1,500 square feet allowed to each homeowner, and also complaints have been received in regard to the projected deadline of no more sod permits being sold as of May 16, 2007.

Mr. Sintas explained that he has revised the conservation plan to include the section for "Exemptions." The exemptions section are the two items discussed at the April Board Meeting, these are a three-day-a-week watering schedule allowed for schools with heavily used activity and the maintenance of homeowners' sprinkler systems. (see revised plan attached).

- Mr. Schubert suggested that the word "all" be removed from the sod permit requirements, which stated, "Top Soil and/or Soil Amendments required for *all* sod installations and receipts must be provided." Mr. Felt, however, provided his recommendation that the word "all" remain inclusive in the requirements because, if it was removed, it would result in additional and wordy exceptions.
- Mr. Lovato believed that the maximum of 1,500 square feet of sod allowed to each homeowner was not an adequate and reasonable amount. Lengthy discussion ensued as to whether the Board should allow up to 2,000. It was the consensus that allowing more than 1,500 square feet of sod would not be permitted, as the Board's recent mandates provided for no variance and no provisions. Mr. Felt generalized that if a homeowner chose to install, for example, 10,000 square feet of sod, the additional 8,500 square feet of sod would only be allowed to be watered on the two-day watering schedule. He stated that if a rate structure was to be enforced on

additional square footage of sod, the District would be paid handsomely for that excessive watering. Mr. Petersen commented that he recently researched other utility companies' water rate tiers and stated that Highland Ranch established a water budget for each home. Mr. Lovato reiterated a concern of his, stating it's not about money, but it's about the District's resources for water. Mr. Lovato believed the District needs to have a fundamental change through education and public awareness, and that Mr. Petersen "had his work cut out for him. Mr. Petersen exclaimed, "I'm in it for the long run!"

#### ITEM 11:

⇒ Golf Course, Pro Shop – Todd Laxson  
Maintenance – Griff Rainford

- On behalf of Mr. Laxson's and Mr. Rainford's excused absences, Mr. Petersen reported to the Board last month's highlights for the Pro Shop and Maintenance reading over their memos to the Board (see attached). Mr. Petersen pointed out that here will be a building dedication of the Cherokee Ridge Club House to the late Mr. Stuart Loosley on Monday, May 14, 2007, from 2 p.m. to 4 p.m., with the dedication being held at 2:30 p.m. Mr. Petersen also stated that Michael Loosley has given notice that May 20<sup>th</sup> will be his last day at Cherokee Ridge as he is pursuing a new career path based on his impending graduation.
- Mr. Petersen noted from Mr. Rainford's memo, that watering of the course occurs on an as-needed basis during night time hours and that fifty-two percent less water was used in April, 2007, compared to April, 2006.

#### ITEM 12:

⇒ Old Business

- Mr. Petersen addressed the Board concerning his proposal for the Community Outreach Program (see attached). Since the Board had some concerns in regard to an earlier proposal, Mr. Petersen wanted to re-address the proposal in a different light for the Board's consideration. He suggested a two-step approach in this process: Step 1 would establish a budget to be developed within 90 days, with an amount of \$30,000 to be set aside for this phase with any additional budgetary needs to be presented to and approved by the Board. Step 2 would start the process of a broader

community outreach program by holding a work session on a Saturday morning. The purpose for this would be to allow the Board to discuss the broad framework of a community outreach program that includes education, demonstration, and consolidation of existing resources. Before the Board could feel comfortable with establishing a budget for Step 2, they would need to establish what they wanted to accomplish. This would be the purpose of the work session, which would be open to the public. Mr. Petersen requested the Board's consideration in authorizing Step 1 of the program. Mr. Lovato agreed with Mr. Petersen's objectives and encouraged the Board to support it. The Board agreed to meet on May 22, 2007, at 5:30 p.m. to allow for a work session to discuss step 2, this work session would be open to the public. This meeting will be posted in the appropriate locations.

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

**MR. LOVATO MADE A MOTION TO APPROVE MR. PETERSEN'S REQUEST TO BEGIN STEP 1 OF THE PUBLIC RELATIONS AND COMMUNITY OUTREACH PROGRAM WITH A BUDGETARY EXPENDITURE OF \$30,000. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 13:

⇒ New Business

- Mr. Petersen presented to the Board a proposed amendment to the adopted Personnel Policies and Procedure Manual relating to the mandated federal drug and alcohol testing requirements for all employees who have a CDL (Commercial Drivers License) (see attached). The Department of Transportation has federal requirements on mandatory, random testing for both drugs and alcohol. The proposed amendments include the procedures which need to be followed for testing as well as post-accident issues. The policies will only apply to those employees with a CDL. All other employees in the District are covered under the existing pre-employment testing requirements, as well as any reasonable suspicion issues which may arise as a result of performance or specific incidents which meet the threshold for reasonable suspicion. Mr. Schubert requested clarification that this was a federally-mandated requirement, which he was told it was.

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

**MS. JONES MADE A MOTION TO ADOPT AND INCORPORATE IN TO CHEROKEE'S PERSONNEL POLICIES AND PROCEDURE MANUAL THE FEDERAL MANDATED DRUG AND ALCOHOL TESTING REQUIREMENTS**

**FOR CDL DRIVERS. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Mr. Petersen asked that Mr. Tamsen introduce himself to the Board. Mr. Tamsen stated that he personally represented himself in his request for the Board's consideration to adjust the sod requirements for his lawn. He professionally and graciously explained his situation to the Board, stating the homebuilder had set forth sod and landscaping guidelines which contradicted the sod requirements set by the Board. He wanted to emphasize that those in his neighborhood had similar concerns, but he was not representing them and requested an individual and exclusive waiver from the Board for the specified sod allowance. Although Mr. Tamsen's homebuilder was in attendance, and Ms. Jones requested clarification of the homebuilder's guidelines, the gentleman stated he could not speak on behalf of the homebuilder; but he did offer to relay developments of the meeting back to his employer. It was the general consensus by the Board that Mr. Tamsen's concerns should be addressed by the homebuilder. Mr. Heath Herber, developer of Westerra Development, interjected his opinion stating that the District needed to "get out of the land use business" and rather, try to achieve the results of people using water wisely. This could be accomplished by a tiered pricing and education program. Mr. Felt applauded Mr. Tamsen for bringing this issue to the attention of the Board as it had raised several issues which needed to be addressed. He also stated that Mr. Herber's comments were very valid. He advised that the Board should, in the future, re-address this issue and incorporate a variance procedure on open irrigation, i.e., reward homeowners using a drip system or allowing for \$2,000 square foot of sod.

After Mr. Tamsen's request, Mr. Schubert asked the Board for their decision. Ms. Jones stated that although this was a difficult decision, a waiver should not be granted to Mr. Tamsen. Mr. Petersen encouraged the Board to make a decision in the evening's meeting as sod permits would no longer be sold after May 15. It was the decision of the Board to review the current policy carefully over the summer to determine if any changes needed to be made in the future for sod permits.

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

**MR. HACKER MADE A MOTION TO LEAVE THE SOD PERMIT GUIDELINES AS IS AND DENY MR. TAMSEN'S REQUEST FOR A VARIANCE IN AN ALLOWANCE FOR ADDITIONAL SOD. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- After the motion was approved, Mr. Tamsen requested that if there was ultimately a variance in the sod permit policy, that it be revealed to the general public well in advance of the September 1, 2007, window, which allows for sod permits to be sold again from September 1 to September 30, 2007.

ITEM 14:

⇒ Public Comments

- Ms. Tina Hudson, referring to Mr. Tamsen's above request, stated that homeowners in the District have known for a long time about the watering restrictions placed upon the District and had concerns that Mr. Tamsen just presented to the Board, for the first time, his concerns and request for sod variances. She also questioned if there were any new developments on the District's order to Mr. Scott Whatcott to remove property and structures from Cherokee-owned property behind his home. She made a request to the Board that she would like to buy this property if it becomes available for sale.
- Ms. Jane Olson wanted to know when the Poleson water becomes available would the District be allowing for three days-a-week watering in the foreseeable future. Mr. Petersen responded to her by saying that there will not be a three-day-a-week watering schedule offered by the District for 2007.
- Mr. Petersen reminded the Board and those in attendance of the Dreamscapes xeriscaping demonstration which will be held as an open house on June 9, 2007, at 10 a.m. This will also be advertised on the radio prior to approaching date.

Mr. Schubert requested a ten-minute break at 8:08 p.m.  
The Regular Meeting reconvened at 8:20 p.m.

ITEM 16:

⇒ Executive Session: CRS 24-6-402(4)(b)

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

**MR. HACKER MADE A MOTION TO ENTER INTO AN EXECUTIVE SESSION CITING CRS 24-6-402(4)(b), CONFERENCE WITH AN ATTORNEY RECEIVING LEGAL ADVICE. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

Executive Session was entered into at 8:21 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 9:15 p.m..

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 9:17 p.m.

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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