

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

June 12, 2007

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, June 12, 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	John Fuller, Harbor Lights Church
Art Sintas	Michael D. Rasdall, Resident
Dian Hardekopf	Chloe Olson, Resident
Jim Felt	Karl Raymond, Resident
Sara Howard	Linda McClaren, Resident
Todd Laxson	Tina Hudson, Resident
Griff Rainford	Jan Olson, Resident
Ed Meyer	Bob and Margaret Nestor, Residents
Bill Beahan	Damaro Monge

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 with the exception of Robert Lovato, who arrived at 5:33 p.m.

Mr. Schubert advised those in attendance he was going to turn the meeting over to Vice-Chairman Andy Anderson, because of a persistent cough he was experiencing.

ITEMS 2 AND 3:

After Mr. Anderson took the chair, he announced that the evening's Agenda would be slightly altered to introduce a new format which included the public being given the opportunity to comment on each agenda item, not just at the time of "Public Comments" at the beginning and end of the meeting as has been done in previous meetings. He asked Mr. Petersen to highlight on the new format; Mr. Petersen quickly explained the new format (memo and procedure attached), stating the evening's altered Agenda would be considered as a "silent run," and that Item 14, Public Comments, would be eliminated. These procedures will be available at each future meeting for the public.

*****MOTION*****

MS. JONES MADE A MOTION TO AMEND THE EVENING'S AGENDA AS DISCUSSED AND TO ELIMINATE ITEM 14. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 4:

The Minutes of the Regular Meeting of May 8, 2007, were reviewed. No changes were noted.

*****MOTION*****

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

The Minutes of the Special Work Session of May 22, 2007, were reviewed. No changes were noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE SPECIAL WORK SESSION OF MAY 22, 2007. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 5:

⇒ Public Comments

- After Mr. Anderson requested all attendees to sign in, public comments for items not on the agenda were invited. There were two shows of hands.

- Mr. Bill Beahan wanted to thank the Board, the Staff, and the Golf Course for their attention to detail in publicly displaying the plaque of the late Stu Loosley. He remarked the gesture was very fitting. He also praised the District on the new addition of xeriscaping around the exterior of the office.
- Mr. Michael Rasdall had a question about the District's billing system. He wanted to know why he was being charged for a new water meter, at the cost of \$8.21 per month, when he didn't need a new one installed in his home nor had he asked to have one installed. Mr. Petersen responded, citing a Black and Veatch Rate Study performed in 1997 whereby those charges are incurred to customers to cover the costs of calibrating meters; and the cost per month is a service charge availability. Mr. Rasdall responded he had lived in the District since 1983 and never had any problems with his meter and stated the service charge is wrong. He accused the District of hiding its charges and not being honest with its customers and at no time had the District told their customers of this charge. Ms. Hardekopf stated that past mailings to the customers regarding rate increases have disclosed this fee. Mr. Rasdall stated he would like copies of these items without altering the dates they were produced. Mr. Petersen told Mr. Rasdall that he would be happy to discuss his concerns with him at any time if he would like to call or stop by the office. Mr. Petersen also stated his displeasure of Cherokee being accused of changing or hiding items given to the customers. Mr. Anderson said his concerns would be researched and the meeting needed to continue on. Mr. Lovato suggested to Mr. Rasdall if he couldn't resolve his issues with the Staff, that he should approach the Board of Directors. Mr. Anderson concurred, but he said a Public Board Meeting was not the time to resolve controversial issues as Mr. Rasdall's allegations could not be spontaneously resolved at the current time since Staff had not been contacted first.

There were no further comments or questions by the public.

ITEM 6:

⇒ Treasurer's Report

There was no Treasurer's Report, although the Board was provided financial highlights through May 31, 2007 (see attached).

ITEM 7:

⇒ Legal Report – Mr. Jim Felt

- Mr. Felt reported the District had signed a contract for additional water rights from the Poleson Well located close to Cherokee Well #5. The well is currently in the due diligence state, which means the pump is being tested. The Poleson Well will provide 78 additional acre feet of water.
- There is an offer being extended for an additional water right north of Well #8. It is hoped a verbal agreement can be reached soon which would provide the District with an additional 200 acre feet of water near the Guthrie Well, this agreement will be for the Albrecht well.
- The Golf Course wells still need to be drilled, Cherokee will have Layne Western doing the drilling and is hoped to start as early as Friday or Monday. One well will be drilled first, and contingent on the outcome of the first, it will be determined further when and if the second well will be drilled.
- Mr. Lovato asked for the total accumulation of acre feet of water the District is trying to achieve in its recovery from the court ruling of March 2006, and Mr. Felt responded that the "magic number was 1200."
- Mr. Hacker asked if we would still be able to meet the required augmentation once our wastewater flows will be going out east to the new plant. Mr. Felt stated that we would meet the requirements with the substitute water supply plan that will be filed.

Mr. Anderson opened the floor to any comments from the public. Although out of context, Ms. Jan Olson asked about the progress with the "man in the shed," and was told those developments were still pending and under investigation. Mr. Beahan asked if the Home Depot was still planning on building within the District, and he was told that it was still in the planning stages.

ITEM 8:

⇒ Engineering Report – Ed Meyer

- Mr. Ed Meyer referred to his Engineering Report Items (see attached) while informing the Board that Pay Request #3 from HD Supply Waterworks, Ltd., has been received. The gross amount earned through June 6, 2007, is \$1,672,478.34. With retainage at 5% (\$94,202.09) of the contract amount; the amount due to HD Supply is \$264,350.00. GMS recommends payment in that amount. Mr. Meyer stated HD Supply Waterworks, Ltd., should have all remaining materials delivered within the month of June.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST #3 TO HD SUPPLY WATERWORKS, LTD., IN THE AMOUNT OF \$264,350.00. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Pate Construction has submitted Pay Request #3. It reflects work accomplished through May 31, 2007. The amount earned is shown at \$642,952.00. Taking 5% retainage of the total contract amount into account, the net amount due the Contractor is \$362,318.90. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST #3 TO PATE CONSTRUCTION, IN THE AMOUNT OF \$362,318.90. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Velocity Constructors has fallen somewhat behind schedule and is reporting to be 9% complete. Over-excavation work has occurred in some of the basins with some of the delay being caused by substantial clay deposits in basin #2. Velocity Constructors second Pay Request is effective through May 26, 2007 and shows \$172,514.98 earned. With retainage at 10% (\$17,251.50) and taking into account the previous payment, the net amount due the Contractor is \$72,988.18. GMS recommends payment in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE PAY REQUEST #2 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$72,988.18. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Design work on the WWTP Project is still pending. The needed meeting between the District and Meridian to discuss flow equalization has occurred; however, no feedback has been received from Meridian.
- Pipeline installation for the Tipton interconnecting water transmission line is projected to begin on June 13th and provides for a 60-calendar day construction period. The Tipton Well has yet to be re-drilled and is anticipated to occur within the next two weeks. Once re-drilled, test pumping will be conducted.

- The Golf Course irrigation well has yet to be drilled. Once drilled and test pumped, GMS will coordinate with staff to determine an appropriate course of action based upon production capability.
- Allowing for public comments at this time, Ms. Margaret Nestor asked for a breakdown of water the District is trying to purchase and the ownership of that water. Mr. Felt summarized that 200 acre feet of water is resourced from what is called the Kane well located at the southern end of the Black Squirrel Basin, and this water is permanent and renewable. As part of this agreement, release of obligation for 800 acre feet of water was given to the District. The purchase of 225 acre feet of water from the Tipton Well is also permanent and renewable. The Poleson Well (from Well #5) is currently under contract but is not closed. This Well will provide 72 acre feet of water. Mr. Felt also stated that there is a short-term lease on the Guthrie water for 289 acre feet which Meridian Ranch is not using, and a short-term augmentation for the Golf Course. Ms. Olson requested pictures and locations of these wells.
- A question was raised as to whether or not the District would be released from Stage 2 to a more lenient stage of watering this summer. Mr. Petersen stated the District will not graduate to a more lenient watering schedule, and it would likely not happen until possibly summer, 2009. As questions similar to this seem to be raised at each meeting, Mr. Anderson asked Mr. Petersen to compile a graph or chart which visually depicts the District's water sources.

ITEM 9:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen announced that the District's xeriscape garden grand opening on June 9th had well over 100 residents in attendance (see attached memo). Dreamscapes Custom Landscaping was the primary contractor and donated his time and materials to this project. Also, Harding Nursery, Perfect Edge, C& C Sand and Stone Company provided time and donated materials. The purpose of the xeriscape garden was not only to beautify the grounds surrounding the office's building, but also to show residents and customers the range of options available to landscape in lieu of just installing traditional, full yard sod. The District's objective is ***NOT*** (this word was unintentionally omitted from Mr. Petersen's memo) to encourage customers to remove their grass, but rather to illustrate that, with a combination of both grass and drought tolerant plants, a yard can still be very becoming using water conservation practices. Mr. Lovato commented he was not able to attend. Mr.

Hacker suggested sending thank you notes to those vendors who volunteered their time and materials.

- Mr. Petersen had little to report on the property improvement concern with Mr. Scott Whatcott. Legal counsel is under advisement, and the Board will be apprised of future developments.
- The annual Special District Association Conference will be held in Steamboat Springs September 19-21, 2007. Mr. Petersen and Mr. Sintas will be attending this year, and Mr. Petersen encouraged any Board member to attend if possible.
- On September 27-28, 2007, the El Paso County Water Authority will host a conference to study the use of aquifers as storage vessels. The District has financially contributed to this study, and Mr. Petersen encouraged the Board to set aside those two days in September to attend the conference.
- Mr. Petersen is continuing to work with Steve Moorhead in developing a modified community outreach program for the Board to consider. Per the attached Phase 12 Summary Action Plan, Mr. Petersen asked the Board to provide comments on the proposal and will address the same with Mr. Moorhead and introduce the final proposal to the Board at the July 10th Board Meeting. Mr. Petersen also provided a listing (see attached) of all municipalities in the region reporting the status of their water supplies related to lawn irrigation.

ITEM 10:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas reported that over the last couple weeks, the District's wastewater plant had been experiencing odors that hopefully have been corrected by repairing and cleaning all the diffusers within the plant. It had been determined the air diffusers were 50% clogged. Overtime was needed to circumvent the problem and get the diffusers back to operational. Eight of the 32 diffusers were broken and needed repaired. Mr. Anderson asked if there was a maintenance program to keep the diffusers operational and running at all times, and Ms. Jones asked if the diffusers could be replaced in lieu of being repaired. They were advised by Mr. Sintas and Mr. Meyer that there typically is no need for a maintenance program for the diffusers, and they are made of stainless steel and should never need to be replaced.
- Water demands for May were still low at 2.6 MGD vs. 5.4 MGD for May, 2006. The District has utilized 13% of its yearly allocation of

the Pikes Peak Wells. With all wells currently available, the District can produce 3,000 GPM which is equivalent for 4.32 MGD. This amount can sustain the District for a maximum of 66 days and would take the District to the first week of August provided the demands stay low. It is anticipated to have the Tipton and Guthrie Wells operational by August which will produce about 1600 gpm which is equivalent to 2.3 MGD. He provided a chart for the Board's review showing the water demands for the last five years plus 2007 (see attached). Rain fall for May was 3.07 inches. Three-hundred and fifty-seven violations have been issued with 26 of those second violations, one a third violation, and a fourth violation. Total sod permits sold were 184 and have since expired, with one exception being made, that to the Christy McAuliffe School to irrigate their new soccer field.

- There were no comments by the Board. However, Ms. Hernandez asked if maintenance on the diffusers was going to be scheduled in the future; and she was told yes, every five years. Mr. Raymond requested that if the District did incorporate a three-day-a-week watering schedule in the future, that the customers be informed as quickly as possible.

ITEM 11:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson read his memo given to the Board (see attached) and reported that May of 2006, was the biggest May on record but that May 2007 came in at just under \$400.00. The driving range saw a 20% increase from May, 2006, to May, 2007, merchandise sales were up nine percent, and punch cards and the grill were ahead five percent and three percent respectively. Mr. Laxson said his staff is mourning the loss of employee Bob Bouse, who suffered several multiple strokes a few weeks ago and subsequently passed away. The funeral was scheduled for June 13.

Maintenance – Griff Rainford

- Mr. Rainford reported from his memo (see attached). May was a good month for the turf on the Golf Course; they are fully staffed with seasonal help and are focused on daily maintenance and upkeep of the course. Watering has taken place on an as-needed basis to meet the District's restrictions, and the course has used over 40 percent less water to date than last year. The putting greens and chipping greens have been over seeded and top dressed as well as some of the other troubled greens on the course. Ms. Jones and Ms. Olson commended the Golf Course on doing a great job.

ITEM 12:⇒ Old Business

- Mr. Petersen updated the Board on the final Water Conservation Plan (see attached) explaining that the plan was presented at the Regular Public meeting 60 days ago. This is the required time for public comments and Mr. Petersen stated that there were no changes or suggestions given from the public. At this time Mr. Petersen asked the Board for an adoption of the Water Conservation Plan.

*****MOTION*****

MR. LOVATO MADE A MOTION TO ADOPT THE CHEROKEE METROPOLITAN DISTRICT WATER CONSERVATION PLAN AS PRESENTED TO THE BOARD. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Ms. Nestor asked whether or not the District would be subjected to fines or penalties should the District not adhere to this plan. Mr. Petersen stated no, but that the District is required to file a water conservation plan with the State, explaining that any District that has 2000 or more acre feet of water sales a year must have this type of a plan. Also, the District would not be able to obtain funding for projects should the District not have an approved plan.
- As a follow up to last month's meeting, Mr. Petersen provided the Board a brief summary regarding Pastor Fuller's request for needed water for his proposed development. Mr. Fuller was advised that he would be the first developer to be offered water from a contract currently under negotiation called the Poleson Water, and that he could purchase this water at \$15,000 per acre foot. Mr. Fuller believed he was told he would be able to have water made available to him as soon as June. Mr. Fuller introduced a developer and builder in attendance, Damaro Monge, who has been planning the development since 2002. Mr. Fuller requested that he be able to purchase water that was already available in the District. Mr. Felt advised Mr. Fuller that the District will not alter a mandate imposed last August that enforces no new commitments in the District unless new water is brought into the District. Lengthy discussion ensued among legal counsel and the Board. The only possible suggestion was to have Mr. Fuller write a letter to the District, asking the District to make a request to the current developers that have purchased water to see if any of them would be able to release 11 acre feet to Mr. Fuller, at the same price they would have purchased the water. Since a consensus among the Board members could not be reached, it was requested there be a motion

on the floor. Public comments were invited. Mr. Raymond requested a list of commitments currently ongoing in the District for future reference. Ms. Hernandez asked who was going to pay for the legal fees associated with the time to find this water, and Mr. Felt told her Mr. Fuller would be responsible for costs incurred.

*****MOTION*****

MR. HACKER MADE A MOTION TO GIVE PERMISSION FOR LEGAL COUNSEL AND STAFF TO ASSIST MR. FULLER IN REQUESTING THE 11 ACRE FEET PURCHASE OF WATER FROM THE CURRENT DEVELOPERS THAT HAVE PURCHASED WATER. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 13:

⇒ New Business

There was no new business to report.

ITEM 16:

⇒ 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), CONFERENCE WITH AN ATTORNEY RECEIVING LEGAL ADVICE. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Mr. Anderson requested a five minute recess at 7:36 p.m.

The Executive Session reconvened at and was entered into at 7:47 p.m.

*****MOTION*****

MR. SCHUBERT MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RETURN THE REGULAR SESSION OF THE MEETING. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

The Regular Session began at 8:48 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 8:49 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