

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

July 10, 2007

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, July 10, 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	Mark Cuchiara
Dian Hardekopf	Len Meyer
Jim Culichia	Lily Baker
Jim Felt	Sandy DeCarolis
Sara Howard	Mike Corder
Todd Laxson	Bill Beahan
Griff Rainford	Jon and Marcia Maroon
Ed Meyer	Ernie Niemeyer
Tyler Drennan	

OTHER GUESTS SIGNING ATTENDANCE LOG

Mackie Johnson	Gene and Cheryl Vifinkle
Steve McKenna	Mike and Deanna Loreti
Cornelius Clark	Jim and Pat Tygard
Linda O'Riley	Robert and Cathlina Picardo
Jackie Kinnecom	Tina Hudson
Ken Martinez	Friedel Nolan
Caecilia Delgado	Sam Sanchez
Karl Raymond	Bill Oliver
Mary Hernandez	Harry Woodcock
Jean Beam	Ken Overturf
Walt Henley	Mike Romali
Steve Hasbrouck	Mariclare Schnneling
Beatrice Arnold	Sandi Jantz
Robert Poage	Bryan Weiss

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.

ITEM 2:

Mr. Schubert asked if there were any changes or amendments that needed to be made to the agenda. Mr. Petersen informed Mr. Schubert he would like to make a statement after Item No. 4, allowing for any questions to be answered, before proceeding to Item No. 5.

*****MOTION*****

MS. JONES MADE A MOTION TO AMEND THE EVENING'S AGENDA AS DISCUSSED TO INSERT A STATEMENT FROM MR. PETERSEN AFTER ITEM NO. 4 BEFORE PROCEEDING TO ITEM NO. 5. SECONDED BY MR. ANDERSON. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 3:

The Agenda was reviewed as amended. There were no further changes or amendments.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE, AS AMENDED, THE AGENDA OF THE REGULAR MEETING OF JULY 10, 2007. 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 June 12, 2007, were reviewed. No changes were noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE REGULAR MEETING OF JUNE 12, 2007. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Mr. Petersen read the State of the District of July 10, 2007 (see attached). The Board Members had no questions, and questions and comments were invited from the public.

ITEM 5:⇒ Public Comments

- Ken Overturf, a 21-year customer of the District, stated he was still angry from a year ago when he asked the Board for a short- and long-term District plan. He also stated there was no public notice of the July 10th Board Meeting as no notice was given in newsletters or fliers of this upcoming meeting. He questioned the Board and staff's level of competence and made reference to a "magical game" being played. He said he was assured there would be a "grandfather clause" and again questioned the status of a long and short-term plan for the District. He is seeking legal counsel to resolve and address his discontentment and concerns.
- Tina Hudson addressed the Board and responded to Mr. Overturf's accusations stating the regular Board Meetings of the District are held every second Tuesday of each month and are publicized in newsletters and public announcements. She believes individuals only show up at Board Meetings when they have something to complain about. Mr. Lovato explained that the Board has not been lying to anybody. With the help of Cherokee's attorneys, the Board and staff, by working many hours, have been able to acquire additional water resources even since the last Board Meeting. He reiterated Board Meetings are posted on the company's website and on public bulletin boards, and volunteers in attendance from previous Board Meetings helped develop a conservation committee to assist in the implementation of current water restrictions. Mr. Schubert said the District was anticipating the Tipton Well to be on line earlier; however, it needed to be re-drilled. With Mr. Petersen's intervention with the City, additional water was obtained to quickly return to Stage 2.
- Friedel Nolan, a 31-year customer of the District, wanted to know why Cherokee was continuing to build when they should be working on parks and existing modifications. She said the water smells, and there is a bad smell in the air. Mr. Petersen explained that any construction currently underway was approved by the County 3-3 ½ years ago. Mr. Petersen also explained the smell in the air was the wastewater treatment ponds that had to be recycled after detection of high levels of hydrogen sulfide were found. The smell should dissipate within the next week. Ms. Nolan responded that even though the building may have been approved in the past, it should still be stopped.

- Bryan Weiss, who represented himself as living in the Pronghorn Meadows subdivision, was upset that Board Members had not personally passed out fliers on the onset of the announcement that the District was immediately going in to a Stage 4 water conservation plan. He questioned the development of MuleDeer Crossing and was told this was ongoing development already planned several years ago.
- A customer in attendance who identified himself as Ralph, from Chiricahua Drive, wanted to know why sod permits weren't cut back last year when the District "knew this was coming." He said people lost their yards because of poor planning. He asked if the golf course was using non-potable water; and if so, where was it coming from. He believed there were wells located near Powers Boulevard which should be available to the District. Mr. Lovato stated the District's infrastructure and water rights did not allow for transport of water into the District from just any location; and without pipelines in place, this couldn't be done over night. Mr. Lovato also stated that roughly 600 acre feet of water has been acquired since October, 2006.
- Beatrice Arnold commented that Board meeting announcements are not being mentioned in her bills, and she is not getting newsletters.
- Barbara Smith, having lived in the District for only about a month after moving from Arizona, was surprised to learn the District was enforcing a water conservation plan.
- Cheryl Vifinkle would like the District to provide an incentive or rebate for xeriscaping lawns.
- Mary Hernandez stated that she was very angry a year ago, but with attending the regular meetings and learning more, she has a better understanding of the District and how it operates. She also noted that most customers in the audience were there for the first time, and they needed to take more responsibility.

At this time, Mr. Schubert asked for a short break. The meeting recessed at 6:31 p.m.

The regular meeting resumed at 6:44 p.m.

- Ross Campbell wanted to know why a strategic plan was not in place to address short-term resolutions. Mr. Petersen said this was currently being worked on.
- Jim Tygard objected to the monthly charges being billed to him for the water meter in his home and the high sewer rate

charges. He believed he was paying more money for using less water and stated that sewer rates have increased to 126%.

- Mike Romali said he doesn't want any more restrictions and he would move out of the district if he could. He wanted to know why existing customers couldn't be given the opportunity to transfer to other utility companies in the area.
- Cornelius Clark wanted to know why the District's employees snuck around, hanging violations on doors in lieu of approaching the customers' homes and handing the notices to them. He wanted to know where the District had the right to fine, as that's considered a legal fee. He felt like the District was hiding something about developers.
- Robert Picardo stated the District has a problem with perception, asking why the customers' grass should be dead while the Golf Course's is still green. He stated that the District's employees like to issue tickets, then run and hide.
- Ken Martinez believed the rates have increased 300% because of the new wastewater treatment facility needing to be built for all the new development. Mr. Petersen responded that because of the State Health Department setting higher mandated standards for wastewater plants, the District would be required to construct a new plant even if there had been no development. The new wastewater plant would be needed even if the District was half the size. Therefore, the District is reacting to these requirements in a timeframe acceptable with the State Health Department.
- Ross Campbell said the District has lost public confidence, and he had an easy question for the Board to answer. He asked if the Board feels confident they are in compliance with Colorado's open records law, and he wanted to know how the Board would rate its competence. He urged a strategic plan to be in place to address the District's short-term plans.

There were no further 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 Culichia

- Mr. Culichia briefed the Board on the recent purchase of a two-year contract of wheeling water through the City of Colorado Springs. The water leased is transported from Pueblo West. These negotiation processes commenced last January. Mr. Culichia also apprised the Board of the recent negotiations with a water right owner south of the Tipton Well and stated a the negotiations for a contract would be discussed in executive session. The well has been drilled adjacent to the Golf Course and the test pumping has recorded production to be somewhere between 175-200 gallons per minute; this water will be for non-potable use in irrigating the golf course. The Tipton Well is being re-drilled as of July 10th and should be finished by July 13th; however, the water won't be online for 3-4 weeks if all goes smoothly.

ITEM 8:

⇒ Engineering Report – Ed Meyer

- Mr. Ed Meyer referred to his Engineering Report Items (see attached) while informing the Board that Pay Request #4 from HD Supply Waterworks, Ltd., has been received. The gross amount earned through July 2, 2007, is \$1,771,464.25. With retainage at 5% (\$94,202.09) of the contract, the net amount due the Contractor is \$98,985.91. GMS recommends approval of the pay request in that amount. Mr. Meyer stated HD Supply Waterworks, Ltd., should have the remaining materials delivered within the month of July.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST #4 TO HD SUPPLY WATERWORKS, LTD., IN THE AMOUNT OF \$98,985.91. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Pate Construction has submitted Pay Request #4. It reflects work accomplished through June 30, 2007. The amount earned is shown at \$884,753.90. Taking 5% retainage of the total contract amount into account, the net amount due the Contractor is \$241,801.99. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST #4 TO PATE CONSTRUCTION, IN THE AMOUNT OF \$241,801.99. SECONDED

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

- Velocity Constructors' third pay request has been received and is effective through June 26, 2007. The pay request shows \$272,832.52 earned. With retainage at 10%, the net amount due is \$90,285.79. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST #3 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$90,285.79. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Meyer provided an update on the Tipton interconnecting water transmission line. Carrigan Excavating's first pay request has been received. With retainage at 10%, the net amount due Carrigan Excavating is \$197,657.54. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST #1 TO CARRIGAN EXCAVATING IN THE AMOUNT OF \$197,657.54. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- The Golf Course irrigation well has been drilled, and preliminary pumping data shows a pumping rate of 175-200 gallons per minute. GMS recommends the purchase of a skid-mounted pumping unit to expedite the installation of the well. A second well drilling is still being considered.

*****MOTION*****

MS. JONES MADE A MOTION FOR THE PURCHASE OF A SKID-MOUNTED PUMPING UNIT TO BE INCORPORATED INTO THE INSTALLATION PROJECT OF THE GOLF COURSE WELL. SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEMS 9 AND 10:

⇒ Manager's Report and Water/Wastewater Report- Kip Petersen

- As Mr. Sintas had an excused absence from the evening's meeting, Mr. Petersen opted to combine both items on the agenda. Mr.

Petersen recognized that a downfall of Cherokee is their communication notification. He explained that he has been looking into a reverse "911" calling system to notify the residents of time sensitive information; He is also considering, with the Fire Station, the design of a message sign to be erected at the intersection of Tuskegee Drive and Palmer Park Boulevard to notify the District's customers of the current water conservation plan and announcements pertinent to the activities of the District. Mr. Petersen also stated that after the emergency announcement of the Stage 4 implementation of water restrictions that the press media reacted quickly to the emergency, sensationalizing on those developments, but didn't react as quickly to the return of Stage 2.

ITEM 11:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson highlighted on the developments for June, of the Golf Course and provided a year-to-date revenue comparison of 2006 and 2007 (see attached). Ms. Jones commented that the staff at the course have been working very hard to keep things running and looking great, she commends their hard work.

Maintenance – Griff Rainford

- Mr. Rainford gave an updated report on the condition of the greens on the Golf Course (see attached). Mr. Rainford explained that the course has reduced their water usage by 40%.

ITEM 12:

⇒ Old Business

- Mr. Schubert asked for an update on the Board's motion to remove an existing structure erected without the District's permission which is located in the Claremont Ranch subdivision, and Mr. Petersen informed him that no action had been taken at this time since there were other pressing issues with the water conservation.

ITEM 13:

⇒ New Business

There was no new business to report, and further questions were addressed from those in attendance.

- A customer from the audience asked if the District provided water to SAFB and if so, why doesn't CSU take it over. Mr. Petersen

explained that Cherokee has had the contract with SAFB for a number of years and that CSU does not have the infrastructure in place to handle their services. Another question was raised of the possibility of Cheyenne Mountain closing down and the effect it would have for Cherokee. Mr. Meyer explained that the water commitment for SAFB was made years ago and that SAFB would not be approved for more than that commitment unless, like the developers, brought physical water to the District.

- Mr. Schubert suggested to Mr. Petersen that he schedule a tour of the District and the wells out in/near Ellicott for the Board of Directors so that all members had a visual of Cherokee's infrastructures.
- Mr. Weiss asked if it was feasible to have a 'skeleton drawing' on the geographical location of the District's wells.
- Karl Raymond suggested a once-a-month "town hall" meeting to allow only for a question and answer session and have it unrelated to a scheduled Board Meeting.

ITEM 14:

⇒ 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. Schubert requested a recess at 8:09 p.m. before entering into the executive session.

The Executive Session was entered into at 8:20 p.m.

*****MOTION*****

MR. HACKER MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RETURN 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 9:40 P.M.

At this time the Board reviewed the contract negotiations for the purchase of the Albrecht water (see attached agreement).

*****MOTION*****

MR. ANDERSON MADE A MOTION TO APPROVE AND SIGN THE AGREEMENT FOR PURCHASE OF THE ALBRECHT WATER. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 15:

⇒ Adjournment

There being no further business to come before the Board at this time, a motion was made for adjournment.

The Meeting adjourned at 9:45 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