

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

March 9, 2010

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, March 9, 2010, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Steve Hasbrouck
Kurt VandenBoogaard
Robert Lovato
Dave Hacker

OTHERS PRESENT

Kip Petersen	Sandy DeCarolis
Art Sintas	Griff Rainford
Jim Culichia	Robyn Herzog
Dian Hardekopf	Sara Howard
Todd Laxson	Pete Heidebrecht
Ed Meyer	Janie Lane

OTHER GUESTS SIGNING ATTENDANCE LOG

Lynne Bliss	Ken Miller
Frank Gonzalez	Jan Cederberg
Dave DeHart	Chloe Olson
Jim Presley	Dave Mattes
Mary Hernandez	

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:31 p.m. Ms. Hardekopf called roll call of the Board of Directors, all Directors were present except for Sean Byers who had an excused absence.

ITEMS 2 and 3:

Mr. Hasbrouck 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 OF THE REGULAR MEETING OF MARCH 9, 2010. SECONDED BY MR. HACKER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

ITEM 4:

The Minutes of the Regular Meeting of February 9, 2010, were reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF FEBRUARY 9, 2010. SECONDED BY MR. VANDENBOOGAARD. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

ITEM 5:

⇒ Public Comments

- Mr. Hasbrouck asked if anyone wished to speak from the audience and for those who wished to speak to sign. Dave Mattes asked about the status of the ongoing court cases and was told Mr. Culichia would be reviewing those topics in his report.
- Jim Presley, who is a landlord of a four-plex in the District, stated it was unfair he was being charged at the step rate of a single family dwelling when actually there were four single homes in the building. For example, water usage for the four-plex for the month of February was registered at 27 units, and Mr. Presley, as the single account holder, was charged three step increases. If calculated differently, and each tenant as a single family averaged approximately seven units, the account holder would have been charged with only two step increases. Mr. Petersen stated the District's engineers were conducting a rate study to address these types of concerns, and the study had just commenced. It was at this time Mr. Presley abruptly left the room.
- A homeowner in the District expressed his displeasure concerning the water rate increase which took effect in the February, 2010, billing, and feared he could be paying \$300 a month more for watering his lawn this summer. He believed he, as a customer, was paying double over what Colorado Springs Utilities customers were paying. Mr. Lovato answered his questions by providing an

overview of the District's loss of wells, the increased cost in purchasing water from CSU, the cost of building a \$30 million dollar wastewater treatment plant, and explaining the District had no increase in water rates for several years (but should have which perhaps could have circumvented the District's existing situation). Mr. Petersen added to Mr. Lovato's comments by explaining the prohibition of these wells and the decrease in tap fees sold for new homes.

- Mary Hernandez asked the Board if the District's water rates would be lowered should the City lower their sale price of their water. Mr. Petersen could not make a determination at this time, and Mr. Culichia added that the rate increase was justifiably attributable to the District's loss of water from Wells 1-8.
- Mr. Mattes stated that he was glad to see Cherokee wells being shut down and feels his well is going dry because of Cherokee's pumping. Mr. Mattes asked to see data on how much the aquifer has dropped since the wells went on line. Mr. Mattes stated he didn't trust the District with its information and wanted to see the data. Mr. Petersen stated he could provide him this information.
- Ms. Hernandez stated that if, on average, a single family uses approximately seven units of water, why didn't the District use this step scale instead of presently using the step scale of five units of water. She was told a study years ago determined the usage of a family dwelling. However, once again, a new study is being conducted by the District's engineers.

ITEM 6:

⇒ Legal Report – Mr. Jim Culichia

- Mr. Culichia updated the Board on the developments of several legal issues. On March 5, 2010, the District closed on the Duncan Well which produces approximately 95 acre feet per year. The money from the sale is in escrow pending litigation which could take place within the next 30 days.
- The Wells 14-17 appeal is pending, and briefs are due March 15th to the Supreme Court. The Supreme Court will go on break in the summer and reconvene in September; however, the District will be able to use Wells 14-17 through the summer.
- On March 23rd, Mr. Petersen will be meeting with Colorado Springs City Council to negotiate a possible future lease of their water to the District for a short term lease.

- There has been no movement on the Replacement Plan. Counsel has asked Judge Maes to schedule oral arguments, but he has declined.

ITEM 7:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Two major issues have delayed the completion of the Wastewater Treatment Plant. Glacier Construction will not have the plant completed on schedule per its contract, and the Health Department indicated the permit for the plant will not be going to public notice until sometime this month. They will be scheduling a formal public hearing in the Colorado Springs area to review the draft permit in April, and purportedly the permit authorizing the District to discharge is projected to be finalized no sooner than early or late June.
- Given these two factors, the project team mutually agreed that it would be both to the District's and Glacier's benefit to extend the completion date on the projected 106 calendar days to July 1, 2010; and this has been integrated into Change Order No. 6. Change order #6 will increase the contract value by \$15,187 and GMS recommends approval in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE CHANGE ORDER NO. 6 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$15,187.00, INCREASING THE CONTRACT AMOUNT. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Change Order No. 7 has also been compiled and acknowledges the lift stations will be functional by July 1, 2010 and that the work associated with the existing treatment plant's Cell No. 2 is to be completed no later than September 30, 2010. The Change Order increases Glacier's contract by \$7,160 and GMS recommends approval of that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE CHANGE ORDER NO. 7 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$7,160. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL

CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Glacier Construction has submitted Pay Request No. 20 and reflects \$16,020,239.47 earned to date. Taking into account retainage and the prior payments, the net amount due Glacier Construction is \$154,007.65. GMS recommends approval in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 20 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$154,007.65. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Work is progressing on all fronts of the WWTP. Yard piping construction on Lift Station No. 1 is approximately 70% complete. The building CMU walls are approximately 80% complete, and the standby generator has been installed. Electrical service by MVEA is complete, and all underslab and yard piping and conduits are complete.
- Change Order No. 3 on the Timber Line Electric and Control contract has been compiled and relates to additional work activities requested of the Contractor to make the entire wastewater treatment plan and recharge facility fully automated and operational through the SCADA system. Five components are contained within the Change Order, and their collective total is an increase in the contract amount by \$10,662.00. GMS recommends approval of the Change Order in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE CHANGE ORDER NO. 3 TO TIMBER LINE ELECTRIC & CONTROL CORPORATION IN THE AMOUNT OF \$10,662 INCREASING THE CONTRACT AMOUNT. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Timber Line Electric & Control Corporation has submitted Pay Request No. 11 and reflects \$372,975.00 earned to date. Taking into account retainage and the prior payments, the net amount due Timber Line for Pay Request No. 11 is \$12,254.40 GMS recommends approval in that amount.
- Pay Request No. 12 has been received from Timber Line Electric & Control Corporation and reflects \$380,947.00 earned to date.

Taking into account retainage and the prior payments, the net amount due Timber Line for Pay Request No. 12 is \$7,174.80. GMS recommends approval in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 11 IN THE AMOUNT OF \$12,254.40 AND PAY REQUEST NO. 12 IN THE AMOUNT OF \$7,174.80 TO TIMBER LINE ELECTRIC & CONTROL. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- The Water Pollution Control Revolving Fund Loan Request No. 26 has been prepared, and it requests a total of \$203,447.55 to be remitted to the District to cover eligible costs for February. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #26 BACK TO THE DISTRICT IN THE AMOUNT OF \$203,447.55. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Meyer provided to the Board the attached Allocation of Costs on February's Contractor Draw Requests and a breakdown of the Project Expenditure Reimbursement Request No. 26.

ITEM 8:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen advised the Board he is working with Colorado Springs Utilities on multiple levels, and UPAC's next meeting is March 17. UPAC will have final recommendations in April concerning the code changes process, which will be presented to the Springs Utility Board.

ITEM 9:

⇒ Water/Wastewater Report – Art Sintas

See attached memo; there were no comments at this time.

ITEM 10:

⇒ Golf Course

See attached memos; there were no comments at this time.

ITEM 11:

⇒ Old Business

There was no old business to report.

ITEM 12:

⇒ New Business

Mr. Lovato announced, for the record, that he had put in his self-nomination form to run for the Woodmen Hills District Board of Directors.

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. LOVATO. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

A short break was taken at 7:21 p.m.
Executive Session was entered into at 7:39 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 VANDENBOOGAARD. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

The Regular Session began at 8:33 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 8:34 p.m.

Kurt VandenBoogaard, Secretary

Board Members

Term Expires

Steve Hasbrouck, President
Dave Hacker, Vice President
Kurt VandenBoogaard, Secretary/Treasurer
Robert Lovato, Director
Sean Byers, Director

May, 2012
May, 2010
May, 2010
May, 2012
May, 2010