

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

April 13, 2010

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, April 13, 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
Sean Beyers

OTHERS PRESENT

Kip Petersen	Robyn Herzog
Art Sintas	Griff Rainford
Jim Culichia	Janie Lane
Sandy DeCarolis	Sara Howard
Todd Laxson	Pete Heidebrecht
Ed Meyer	Len Meyer
Mark Cuchiara	Jon Waker

OTHER GUESTS SIGNING ATTENDANCE LOG

Mary Hernandez	Jan Cederberg
Dave & Linda Mattes	Chloe Olson
William Beahan	Assunta Manning
Kenneth Martinez	Bill King
Dave DeHart	Dawn Rush
John Tucker	Sandi Hasbrouck
Audrey Clark	John Morrison
John & Marion McDevitt	Steve Blubaugh

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:33 p.m. In Ms. Hardekopf's absence, Sara Howard called roll call of the Board of Directors, all Directors were present.

ITEMS 2 and 3:

Mr. Hasbrouck asked if there were any changes or amendments that needed to be made. Mr. Petersen requested the Memo of Understanding between El Paso County and the Cherokee Metropolitan District be placed on the Agenda under New Business.

*****MOTION*****

MR. BYERS MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF APRIL 13, 2010, AS AMENDED. SECONDED BY MR. HACKER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 4:

The Minutes of the Regular Meeting of March 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 MARCH 9, 2010. SECONDED BY MR. LOVATO. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 5:

⇒ Public Comments

- Mr. Hasbrouck asked if anyone wished to speak from the audience and for those who wished to speak to sign in. Jan Cederberg had a question about the City Council Minutes from their meeting held on March 23, 2010, referencing the loss of the District's Wells 1-8. Mr. Petersen advised he had no control over CSU's Minutes from City Council meetings and confirmed Mary Hernandez's question that the contract proposed by CSU and the District was for a three-year period.
- Dave DeHart referenced an article written in the SAFB's newspaper whereby water sold to them from the District for their Base Housing

development was purchased at a 'cheap' rate. Since Mr. Petersen did not read the article, he was not knowledgeable as to its content. However, the water purchase the article was referring to was through a 500 acre feet commitment contract made in 1985, and irrigation from this housing project is subject to the District's water conservation plan. Mr. Petersen noted that he is preparing a rate increase proposal for SAFB and Base Housing

- Concern and disappointment was again raised by the audience relating to the District's 87% increase in water rates and the belief that the District's charges were much higher than that of CSU's. Mr. Petersen again reiterated that CSU's contract with the District is at a much higher rate than last year, and the District has been affected by the loss of its use of wells. Dave Mattes asked why Irving Middle School was using the District's water, and after clarification that this school was not in the District, he corrected himself by stating the Christy McCullough School could be used as a 'bargaining chip.' As repeated in many previous meetings, Mr. Lovato reminded the audience that all developers are now required to bring with them their water, an increase in capital improvements is needed to maintain the District's infrastructure, and the cost of the development and construction of the Waste Water Treatment Plan has affected the District's need revenue.
- Mr. Mattes requested a five-year plan from the District. William Beahan believed recent public input from the Board meetings has resulted from the 'crisis' the District is experiencing. He would like to see a more positive approach at the meetings concerning the District's future and its plans. The District has a Golf Course catering to the young citizens of the community, and he expressed his appreciation for the development and maintenance of the District's parks.
- A question was raised as to the excessive calcium buildup in a residential water heater. Mr. Sintas stated that the calcium buildup can be maintained by flushing of the hot water heater.
- Another question was raised as to how much water was being purchased from CSU this year. Mr. Petersen stated that last year's contract was for 500 acre feet which was approximately 20% of the District's water supply. The new contract covers up to potentially 40% of the District's water. He believed, that possibly in 2021, the city could be proposing a 150% water increase. Mr. VandenBoogaard mentioned that other contract negotiations will hopefully wean the District from CSU's water.

- A question arose about the rebates for newly purchased appliances and if the District honors those rebates. The gentleman who addressed this in a phone call to the office was told the District would have to adjust its budget to allow for rebates. Ms. DeCarolis stated that CSU is federally funded for these rebates, and Mr. Petersen stated his office would look into the acquisition of federal funds to possibly do this in the future.
- Ken Martinez asked if the District was going to be able to use water from the Waste Water Treatment Plant to circumvent its shortage, and he was told there was currently litigation with the UBS; and if the replacement wells were denied to the District, future influent flows would positively affect the District's water levels in its existing wells.
- Ms. Cederberg took offense to Mr. VandenBoogaard's comment made in regard to the audience not emitting positive enforcement at the meetings, and Mr. VandenBoogaard said that was a general comment and not directed to anyone specific and explained how the UBS's intentions have always been to force the District to buy their water rights. Ms. Cederberg responded by saying the District could not blame the USB on the loss of the wells. Mr. Lovato did correct Ms. Cederberg by stating USB's history with the District and previous management factors have been 50-70% of the problems the District is experiencing today.
- Ms. Martinez asked that, if the UBS is continually suing the District, can't its counsel take them to court. Mr. Culichia stated the District can only play the hand that it was dealt with, restating the District inherited in 1999 the loss of Wells 1-8 and could potentially lose the use of Wells 14-17. Mr. Culichia also stated that a legal action can take six to ten years to resolve from the conceptual stage and believes two years from now the Waste Water Treatment Plan court case will be resolved.
- Ms. Hernandez had heard in the media about CSU's southern delivery system selling water to other districts, but Cherokee Metropolitan District was not mentioned.
- Mr. VandenBoogaard believes the Board, legal counsel, and staff are feeling positive because USB is having to become accountable, and that is a huge step forward. It was suggested that the UBS Board Meetings be placed in the District's *Cherokee Channel* newsletter.
- Ms. Hernandez asked Mr. VandenBoogaard how many Board Meetings he had attended at the UBS, and he said he had not been to any. Ms. Cederberg addressed Mr. VandenBoogaard by asking, if

he had never attended a meeting, why he was asking the same from members of the audience; and Mr. VandenBoogaard stated the UBS hasn't been accountable by citizen impact, and the District's Board of Directors is represented by its manager and legal counsel. Mr. Petersen concluded the discussion by stating if anyone had a concern about what was being heard through the media, to please call him.

ITEM 6:

⇒ Legal Report – Mr. Jim Culichia

- Mr. Culichia updated the Board on the developments of several legal issues. It is hoped the courts will issue a decree within the next 30-45 days regarding the Denver Basin Lease trial.
- The District has filed its briefs regarding Wells 14-17 and has been given permission to continue to pump from those wells.
- The Colorado Supreme Court has granted an Order stating the Water Court does not have jurisdiction over the Replacement Plan. The water Court has now been given an opportunity to respond to that Order.
- The Duncan Well was purchased in January, 2010, and counsel will be proceeding with the filing of that case.

ITEM 7:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Glacier Construction has submitted Pay Request No. 21 and reflects \$16,314,878.35 earned to date. Taking into account retainage and the prior payments, the net amount due Glacier Construction is \$294,638.88. GMS recommends approval in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 21 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$294,638.88. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Critical target dates have been established on multiple fronts for final completion of the WWTP. A wet test for water is scheduled for the first of June.
- Timer Line Electric & Control Corporation has submitted Pay Request No. 13 and reflects \$406,361.00 earned to date. Taking into account retaining and the prior payments, the net amount due Timber Line is \$22,872.60. GMS recommends approval in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 13 TO TIMBER LINE ELECTRIC & CONTROL CORPORATION IN THE AMOUNT OF \$22,872.60. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- The Water Pollution Control Revolving Fund Loan Request No. 27 has been prepared, and it requests a total of \$353,728.23 to be remitted to the District to cover eligible costs for March. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #27 BACK TO THE DISTRICT IN THE AMOUNT OF \$353,728.23. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Meyer provided to the Board the attached Allocation of Costs on March's Contractor Draw Requests and a breakdown of the Project Expenditure Reimbursement Request No. 27.
- Mr. Lovato asked if Meridian Ranch was paying their part of the bill, and he was advised they are requesting further documentation concerning the legal costs. Mr. Hacker was able to tour the plant and was very impressed. Mr. VandenBoogaard asked what date was being considered for the Open House, and Mr. Petersen stated he was leaning towards mid August.

ITEM 8:

⇒ Manager's Report – Kip Petersen

- On March 23rd Mr. Petersen made a presentation to City Council regarding the District's present and future goals, and he believed the Counsel was generally supportive. There were a number of provisions needed to suspend water service requirements for special contracts, and the contract passed 6-2 to sign a contract with Cherokee Metropolitan District. This action has enabled to District to continue a two-day-a week watering schedule. His meeting with Dick Wolfe, State Engineer, was positive.
- The Election of the Board of Directors is scheduled for May 4. If Ms. Hardekopf is unable to officiate, Lily Baker will be her alternate. Mrs. Baker has picked up the slack wonderfully in Ms. Hardekopf's absence.
- Mr. Petersen's outlook has always been to look east for water, but he has now focused his attention west towards the mountains. In the past, CSU has been unwilling to use their infrastructure to permit other utilities from acquiring their water. However, the CSU Utility Policy Advisory Committee has encouraged CSU to relax their politics, and sometime in the future it may be possible to buy water rights to be routed to the District. With the Replacement Plan taking hold, his goal is to increase irrigation three days a week in the summer.
- Rita Martinez asked Mr. Petersen if staff other than himself could answer media questions in his absence, and Mr. Petersen stated he wishes to remain the point of contact for the District. It was suggested that the newsletter contain information regarding media interaction.

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. Petersen advised a groundwater group had been formed and is undergoing a study involving groundwater contamination. The District has committed \$5,000 to help fund this study. A report and findings is due by the end of the year. Mr. Petersen asked the Board for their permission to sign the Memorandum of Understanding.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE THE MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING TO COMMIT \$5,000 TO HELP FUND A GROUNDWATER CONTAMINATION STUDY. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Petersen asked the Board for their permission to sign the CSU Contract purchasing 500-1000 acre feet of water.

***** MOTION *****

MR. LOVATO MADE A MOTION TO AUTHORIZE THE MANAGER TO SIGN A CONTRACT WITH CSU FOR PURCHASE OF WATER. SECONDED BY MR. VANDENBOOGAARD. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

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. BYERS. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

A short break was taken at 7:20 p.m.

Executive Session was entered into at 7:30 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. LOVATO. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

The Regular Session began at 8:45 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 8:50 p.m.

Secretary

Board Members

Term Expires

Steve Hasbrouck, President	May, 2012
Dave Hacker, Vice President	May, 2010
Kurt VandenBoogaard, Secretary/Treasurer	May, 2010
Robert Lovato, Director	May, 2012
Sean Byers, Director	May, 2010