

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

August 11, 2009

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, August 11, 2009, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Steve Hasbrouck	Kurt VandenBoogaard
Sean Byers	Robert Lovato
Dave Hacker	

OTHERS PRESENT

Kip Petersen	Ed Meyer
Dian Hardekopf	Pete Heidebrecht
Jim Culichia	Sara Howard
Art Sintas	Todd Laxson
Sandy DeCarolis	Brian Beaudette
Robyn Herzog	

OTHER GUESTS SIGNING ATTENDANCE LOG

Mary Hernandez	Andy Anderson
Lynne Bliss	Ken and Rita Martinez
Dave and Linda Mattes	David Mattes
Jon Maroon	Donnetta Guthrie
Ed Burke	Caecilia Delgado
Jean Beam	

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:30 p.m. Ms. Hardekopf called roll call of the Board of Directors, all Directors were present.

Mr. Hasbrouck requested that the meetings will be conducted in a more orderly, cordial and focused manner. He asked that reports be presented with no interruptions, no profanity, and no argumentative statements. The Board would give attendees the opportunity to speak and anyone requesting to speak should have signed in and will state their name before commenting.

He requested only one individual to talk at a time and requested cooperation from everyone present.

ITEM 2:

Mr. Hasbrouck asked if there were any changes or amendments that needed to be made to the Agenda. Mr. Lovato asked that the evening's, and future Agendas, be more streamlined in nature and suggested the Golf Course produce a written report only to the Board and thereby omitting Agenda Item #11(Golf Course) and also to omit items #12 (Old Business) & #13 (New Business), from the evening's meeting. Also, Mr. Petersen asked the Board if it would be possible for Mr. Culichia to present #7 (Legal Report) as summary overview of Wells 14-17 before, rather than after, Item #6 Public Comments.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AMEND THE AGENDA OF THE REGULAR MEETING OF AUGUST 11, 2009, WITH CHANGES AS NOTED ABOVE. SECONDED BY MR. BYERS. WITH A VOICE VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 3:

Mr. Hasbrouck asked if there were any other changes or amendments that needed to be made to the Agenda.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF AUGUST 11, 2009. SECONDED BY MR. HACKER. WITH A VOICE VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 4:

The Minutes of the Regular Meeting of July 14, 2009, were reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF JULY 14, 2009. SECONDED BY MR. HACKER. WITH A VOICE VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 5:

The Minutes of the Special Meeting of August 4, 2009, were reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF AUGUST 4, 2009. SECONDED BY MR. BYERS. WITH A VOICE VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 7:

⇒ Legal Report – Mr. Jim Culichia

- With the recent decision by Judge Maes in the Pueblo County Water Court on July 28, 2009, Mr. Culichia wanted to apprise the Board and audience of the developments occurring within the District over the last several years which he feels, led up to Judge Maes' decision.
- Beginning in 2000 and through 2006, four of the District's wells, Wells 14, 15, 16, 17, located in the southern basin of the Upper Black Squirrel, were drilled from the Sweetwater decrees with a stipulation that their conditional water rights be transitioned to absolute rights within a two-year time period.
- The District failed to transition the water rights to these wells to make absolute rights within the timeframe which was required by the written stipulation from 1999. The UBSGMD filed a motion with Judge Maes in January, 2009, to deny the District's request to make the water rights absolute because of the late filing. On July 28, 2009, Judge Maes made a decision to deny Cherokee's request to make these rights absolute and abandon wells 14, 15, 16 and 17 making the water rights to these wells unavailable for use by anyone.
- The District has filed a motion to reconsider and District counsel will file a motion to allow relief from enforcement of his order while he reconsiders his decision or if it goes through the appeal process. In conclusion the District will try to redeem these absolute rights and in the meantime seek avenues for additional water sources.

ITEM 6:⇒ Public Comments

Mr. Hasbrouck asked if there were any public comments at this time.

- Mr. Anderson asked why the District was required to use the Pueblo Water Court. Earlier applications were filed in Pueblo County and has since geographically remained there as Colorado Springs holds no jurisdiction. Mr. Anderson also asked if there were other sources of water other than from the UBS Basin, and Mr. Petersen stated he has a 2-year purchase contract with CSU; however, the cost is extremely high for the District and most likely will subject customers to a large rate increase.
- Ms. Hernandez asked who specifically did not file the paperwork on time, and she was told it was previous District counsel Mr. Pete Susemihl. She also wanted to know what the chances were in purchasing water from other sources rather than CSU, and Mr. Petersen said he was aggressively looking into some options.
- Mr. Mattes asked the Board's opinion on the 'worst case scenario' of a water shortage for the District, especially if August was a dry month. Mr. Petersen said the projections show that there would be enough water through the Stage 2 Water Conservation Plan and Jim Culichia referred to Mr. Sintas' spreadsheet (see attached) outlining the same. At that time Mr. Sintas presented his attached report (Agenda Item #10 Water/Wastewater Report) of the District's water demands for 2007 and 2008 and explained how the District projected the water usage for the remainder of 2009.
- Questions were asked if customer rates would remain the same through December, 2009, and Mr. Petersen said that he did not want to state one way or the other but would be approaching the Board in September or October with calculations and recommendations on the water rates.
- Ms. Guthrie asked relevant questions regarding the Guthrie Well's water rights and the District's year-to-year contract utilizing that water. Other questions arose regarding CSU possibly annexing the District in the future and whether or not the WWTP would help alleviate the loss of the District's water.
- Mr. Maroon suggested that because the District allocated 500 acre feet of water to SAFB, perhaps some authority in the political arena could help with the District's water rights situation. Mr. Petersen said he earlier had applied for a federal stimulus, and letters to the

Governor and other representatives would be written requesting funding alternatives. Mr. Hasbrouck also suggested the District have a 'town hall' meeting soliciting state representatives to come and receive an overview of the District's water situation.

- Mr. Culichia then updated the Board on the Replacement Plan trial, which is rescheduled for January 11, 2010. The District's Change Case for Well 13 is scheduled for September 17, 2009, in Denver.
- Sand Creek non-potable Well pumping at the Golf Course has turned out to be a good producer. There is potential to drill a second non-potable well on the Course, which would then convert all Golf Course water to non-potable usage. Mr. Lovato asked if there was an avenue to treat the non-potable water on the Course to drinking water for the District's needs, and he was told that with the strict rules for treating water at these points and the permit uses, that the water could only be used on the Golf Course for irrigation use only.

ITEM 8:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided to the Board a report on the wastewater project and related issues (see attached). Glacier Construction's 13th pay request has been received and reflects \$13,942,286.70 earned to date. The overall retainage level remains at \$764,604.60. Taking the retainage and the prior payments into account, the net amount due the Contractor is \$439,968.37. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 13 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$439,968.37. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (5-0).

- Mr. Meyer provided the Board a brief report on the developments of the WWTP, stating yard piping is 100% installed with 30% having passed pressure testing. Electrical conduit installations are completed.
- The headworks building is 95% complete with grating and SCADA remaining, and the digester building is 65% complete. The solids

handling building is 75% complete, and 50% of the conveyor system has been installed.

- The Water Pollution Control Revolving Fund Loan Request No. 19 has been prepared, and it requests a total of \$279,636.88 to be remitted to the District to cover eligible costs for July. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #19 BACK TO THE DISTRICT IN THE AMOUNT OF \$279,636.88. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. 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 July's Contractor Draw Requests and a breakdown of the Project Expenditure Reimbursement Request No. 19. Mr. Lovato asked Ms. DeCarolis if Meridian Ranch had been paying their part of the expenditures, and she replied that they were.

ITEM 9:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen reaffirmed to the Board that currently his number one priority is to seek all possible water resources available to the District and to continue to work on the 2010 Budget.

At this time, a short break was requested so Mr. Hasbrouck could provide signatory authority on the above contracts. The meeting recessed at 7:00 p.m.

The regular meeting resumed at 7:11p.m.

ITEM 12:

⇒ Old Business

Old Business was taken off this evening's agenda.

ITEM 13:

⇒ New Business

New Business was taken off this evening's agenda.

ITEM 14:

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

*****MOTION*****

MR. LOVATO MADE A MOTION TO ENTER INTO AN EXECUTIVE SESSION CITING 24-6-402(4)(b) LEGAL CONSULTATION. SECONDED BY MR. BYERS. WITH A VOICE VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

Executive Session was entered into at 7:12 p.m.

*****MOTION*****

MR. BYERS MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RETURN THE MEETING TO THE OPEN SESSION OF THE REGULAR MEETING. SECONDED BY MR. HACKER. WITH A VOICE VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR WITH THE EXCEPTION OF MR. LOVATO WHO VOTED NO. MOTION CARRIED (4-1).

The Regular Session began at 7:33 p.m.

Mr. Petersen stated that discussions within the executive session did not require any reporting at this time.

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 7:34 p.m.

Kurt VandenBoogaard, 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