

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

October 13, 2009

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, October 13, 2009, at 5:00 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

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|-----------------|---------------------|
| 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 | Len Meyer |

OTHER GUESTS SIGNING ATTENDANCE LOG

| | |
|-----------------|-----------------|
| Mary Hernandez | Andy Anderson |
| Dave Doran | Richard Jenkins |
| Assunta Manning | Jan Cederberg |
| Mariah Olson | Dean Goss |

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:00 p.m. Ms. Hardekopf called roll call of the Board of Directors, all Directors were present with the exception of Mr. Byers who arrived at 5:05 p.m.

ITEMS 2 AND 3:

Mr. Hasbrouck asked if there were any changes or amendments that needed to be made to the Agenda. Mr. Petersen asked that the discussions for the General Manager employment contract be moved to an executive session matter. The Board agreed.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF OCTOBER 13, 2009 WITH THE DISCUSSED CHANGE. SECONDED BY MR. VANDENBOOGAARD. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 4:

⇒ 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. HACKER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

Executive Session was entered into at 5:06 p.m.

******MOTION*****

MR. LOVATO 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. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The Regular Session began at 5:42 p.m.

Before the meeting commenced, Mr. Hasbrouck wanted to recognize Upper Black Squirrel Board Members Dave Doran and Rick Jenkins who were in attendance and also welcomed them to the meeting.

ITEM 5:

The Minutes of the Regular Meeting of September 8, 2009, were reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made to the Minutes. There was a typographical error on Page 6 of the Regular

Minutes which Mr. Hacker pointed out. The correction was duly noted and would be changed before signing.

*****MOTION*****

MR. BYERS MADE A MOTION TO APPROVE, AS AMENDED, THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 8, 2009. SECONDED BY MR. HACKER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 6:

⇒ Public Comments

- Mr. Doran wanted to thank the Board for the welcome to the evening's meeting and encouraged both Boards to get together for a workshop in the betterment of mutual interests. Mr. Hasbrouck again thanked the two gentlemen for coming, and Mr. Petersen stated he would arrange to schedule a date and time for the workshop in the very near future. Mr. Culichia did encourage the Boards to have the workshop in a confidential setting whereby negotiations by both parties could be done in a private setting. Also legal counsel should be involved. Later in the evening, it was agreed by general consensus to attempt scheduling of the workshop on October 27th or 28th, time to be determined, possibly at the Antler's Creek Golf Course.
- Mr. Lovato asked Mr. Doran how many seats were up for re-election to their Board, and Mr. Doran stated there would be four out of five vacancies. Mr. Doran's and Mr. Jenkins' terms expire in February, 2010.

ITEM 7:

⇒ Legal Report – Jim Culichia

- Mr. Culichia updated the Board on the Farmer Senior Water Call which involves Cherokee wells 9-13. The UBSGMD, at their last meeting denied the Call as the application was incomplete.
- The Replacement Plan trial scheduled for January, 2010, will be extended an additional six days due to the Change Case for well 13 and Change Case for wells 9-12 being consolidated into the Replacement Plan proceedings. The trial is now scheduled for January 11-28, 2010.

- The Golf Course augmentation application has been filed, and the Fontana augmentation application has been filed which includes the four Sand Creek Wells. These wells were decommissioned in 1992 and are not suitable for potable water.
- Before CSU can start up their Southern Delivery System, they first have to proceed with a 1041 Permitting Process. In turn, the District has the statutory power to address the community's storm water issues and will be exploring and addressing future storm water concerns with CSU. Although a long-range plan, Mr. Culichia and Mr. Petersen will attend the first meeting next week. The District could likely experience an impact on the storm water system in future years.

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 15th pay request has been received and reflects \$14,609,877.15. Overall retainage continues to stand at \$840,826.51. Taking both the retainage and the prior payments into account, the net amount due the Contractor is \$168,838.71. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 15 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$168,838.71. 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 82% of the electrical conduit installations are complete. The Electrical Building, UV Building, Digester Building, and Operations Building are energized. The electrical building structure is complete with 98% of the control equipment and wiring installed. The headworks building is 97% complete with SCADA and HVAC remaining. The liquid transfer station is 98% complete.
- Mr. Lovato asked if photos of the progress are being taken and if they were available for review. Mr. Petersen stated they were and could be found on the District's website. Mr. Meyer encouraged the Board to go and take a look at the facility if they had time.

- Timber Line Electric and Control Corporation has submitted their second Change Order. It incorporates the remote terminal units at Lift Station Nos. 1 and 2 and related equipment for installation at the two lift stations, the Schriever RTU modifications, FCC licensing and radio related items, radio hardware for the District's office to accommodate splitting the sewer SCADA system from that of the District's water operations, together with an antenna and related equipment and hardware for installation at the wastewater treatment plant. The corresponding total cost associated with Change Order No. 2 is \$110,240.00, and GMS recommends approval of the Change Order in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE CHANGE ORDER NO. 2 TO TIMBER LINE ELECTRIC IN THE AMOUNT OF \$110,240.00 SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (5-0).

- Timber Line Electric has submitted their sixth pay request and reflects a total amount earned to date of \$286,894.10. Retainage stands at 10%. Taking into account retainage and prior payments, the net amount due the Contractor is \$131,998.50. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 6 TO TIMBER LINE ELECTRIC IN THE AMOUNT OF \$131,998.50. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (5-0).

- The Water Pollution Control Revolving Fund Loan Request No. 21 has been prepared, and it requests a total of \$213,779.22 to be remitted to the District to cover eligible costs for September. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #21 BACK TO THE DISTRICT IN THE AMOUNT OF \$213,779.22. 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 September's Contractor Draw Requests and a breakdown of the Project Expenditure Reimbursement Request No. 21.

ITEM 9:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen informed the Board the preparation of the 2010 Budget had been the most challenging budget he has had to prepare. He read a memo (see attached) outlining the process for the review and adoption of the 2010 Budget and divided the presentation into four sections: A simple review of the budget process; the second addressing water rates and demand; a discussion of sewer rates, and the balance of the budget areas and other assumptions that had to be in the development of the budget. Mr. Petersen went into great detail the possibility of acquiring additional water resources which would circumvent the need to purchase a large amount of water from CSU.
- For the purpose of presenting a draft budget to the Board, Mr. Petersen recommended that a "worst case" scenario be assumed in relationship to the District's legal issues which would result in an 87% water rate increase for 2010. No change in the availability charge is being proposed and will remain at \$8.21 per month.
- Mr. Petersen recommended to the Board a sewer rate increase of 10% be adopted for 2010 which would result in a residential monthly bill increase of \$2.45. A street light fee increase was not recommended.
- Ms. Hernandez from the audience asked, if the District did not have to buy water from the city, would it be possible that rates would be reduced, and Mr. Petersen stated that could be a possibility. However, Ms. DeCarolis reminded the Board that in the past, tap fees were relied upon for District revenue, and that is no longer the case for the upcoming year so the increases would need to stay in place. Mr. Petersen also reiterated that the District did not expect to lose Wells 14-17.
- Mr. Lovato was concerned this rate increase would financially challenge a good portion of the District since many homeowners were on fixed incomes.
- It was recommended that a two-hour work session be scheduled to dedicate to the 2010 Budget. It was decided by consensus to have this work session on Tuesday November 3, 2010, at 2 p.m.

- Because of the necessary absence of the Manager in the office, at times whereby checks need signatory authority, Mr. Petersen asked the Board's concurrence for Ms. Hardekopf to be a signator, in conjunction with a Board member, in signing office checks.

*****MOTION*****

MR. BYERS MADE A MOTION TO AMEND THE CURRENT PROCEDURE REGARDING CHECK SIGNING BY ALLOWING ASST MANAGER MS. HARDEKOPF TO SIGN AS AN ALTERNATE FOR THE GENERAL MANAGER IN HIS ABSENCE. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Petersen commended the staff for all their hard work in developing the draft budget.
- Ms. Olson asked about the time limitations for watering for the rest of October. Mr. Sintas allowed for flexibility due to the short daylight hours. Mr. Rainford agreed with Mr. Lovato in his comments that lawns should actually be going into dormancy at this time.

ITEM 10:

⇒ Water/Wastewater Report – Art Sintas

See attached memo.

ITEM 11:

⇒ Golf Course

See attached memos.

ITEM 12:

⇒ Old Business

There was no old business to report.

ITEM 13:⇒ New Business

Mr. Petersen stated that consideration of the General Manager Employment Contract would be discussed after Executive Session.

Mr. Petersen provided his amendment request to IGA with Meridian Ranch (see attached memo) to the Board. The amendment would extend the provisions for interim usage until July 1, 2010, or when the Wastewater Treatment Facility is operational and fully permitted. The second amendment would allow for increased flows from Meridian using the existing, and temporary, lift station that Meridian is currently using within the Woodmen Hills system.

*****MOTION*****

MR. LOVATO MADE A MOTION FOR MR. PETERSEN TO PROVIDE SIGNATOR AUTHORITY TO THE ADDENDUM TO CHICO BASIN WASTEWATER TREATMENT FACILITY AND BLACK SQUIRREL BASIN RECHARGE FACILITY INTERGOVERNMENTAL AGREEMENT. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

Mr. Hacker inquired about the mishap of the gazebo on the general grounds, and Mr. Petersen stated there was a traffic accident and the individual was ticketed.

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. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

At this time, a short break was requested, and the meeting recessed at 7:37 p.m.

Executive Session was entered into at 7:48 p.m.

*****MOTION*****

MR. LOVATO 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 ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The Regular Session began at 9:45 p.m.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE EMPLOYMENT CONTRACT WITH MR. PETERSEN AS THE GENERAL MANAGER FOR THE DISTRICT. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. 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 9:56 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