

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

February 10, 2009

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, February 10, 2009, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Steve Hasbrouck	Dave Hacker
Gayle Jones	Robert Lovato

OTHERS PRESENT

Kip Petersen	Sandy DeCarolis
Dian Hardekopf	Pete Heidebrecht
Jim Felt	Todd Laxson
Art Sintas	Griff Rainford
Ed Meyer	Sara Howard
Brian Beaudette	

OTHER GUESTS SIGNING ATTENDANCE LOG

David and Linda Mattes	Lynne Bliss
Ken and Rita Martinez	Ruth Ann Hacker
Chloe Olson	
Jan Olson	

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 with the exception of Mr. Byers who was excused.

ITEM 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*****

MS. JONES MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF FEBRUARY 10, 2009. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

ITEM 4:

The Minutes of the Regular Meeting of January 13, 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. HACKER MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF JANUARY 13, 2009. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (4-0).

ITEM 5:

⇒ Public Comments

Mr. Hasbrouck asked if there were any public comments at this time. There were none.

ITEM 6:

⇒ Legal Report – Mr. Jim Felt

- Mr. Felt provided to the Board and audience a brief, historical review of the Denver Basin Lease case and reminded the Board the trial was scheduled for the first week of March at the Division of Wildlife in Colorado Springs.
- He then addressed a news article to the Board (see attached) whereby on December 10, 2008, the El Paso County District Court

ruled in favor of the Upper Black Squirrel Groundwater Management District with regard to an appeal filed by multiple metropolitan districts, including Cherokee. The appeal disputed the ability of the UBS to establish rules on the way groundwater within the district was used and moved. Cherokee Metropolitan District has appealed the ruling and has garnered additional support from the El Paso County Planning Department and El Paso County Commissioners, along with a substantial number of private landowners. Mr. Petersen stated that if the UBS's appeal is not overturned, it could have an impact on the District's resources for water. Mr. Lovato addressed several questions regarding the UBS and litigation.

ITEM 7:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Glacier Construction's 7th pay request has been received. It reflects \$7,360,934.37 with retainage at \$736,093.44. The retainage will be placed in the District's COLO Trust account established for this purpose. Taking both the retainage and the prior payments into account, the net amount due the Contractor is \$889,443.49. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE PAY REQUEST NO. 7 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$889,443.49. 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 several fronts of the WWTP. Yard piping installation continues. Aerobic digester concrete work and concrete work on SBR basins 3 and 4 is to be completed in less than two weeks. SBR basin 1 and 2's concrete work is completed. Shrinkage crack repairs are nearing completion as is the hydrostatic testing. The Electrical Building roof is being installed, and foundation work has been initiated on the Operations Building.
- Mr. Meyer referred to the attached Memorandum referencing the allocation of costs on January's contractor draw requests and stated Meridian has been making their payments.

- GMS has negotiated Change Order No. 2 on the ABJ/Sanitaire contract, which included required, off-site storage of equipment to be extended an additional month through January, 2009. The agreed-upon change order is \$1,200; and, taking into account the storage periods addressed in both Change Orders No. 1 and 2, the adjusted contract amount is \$1,269,600. GMS recommends approval of Change Order No. 2 in the amount of \$1,200.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE CHANGE ORDER IN THE AMOUNT OF \$1,200, INCREASING ABJ/SANITAIRE'S CONTRACT TO \$1,269,600. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- The Water Pollution Control Revolving Fund Loan Request No. 13 has been prepared, and it requests a total of \$595,955.66 to be remitted to the District to cover eligible costs for January. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #13 BACK TO THE DISTRICT IN THE AMOUNT OF \$595,955.66. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

ITEM 8:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen informed the Board contract negotiations with SAFB are continuing, and no water will be provided to them for their housing development project until the contract has been signed. He fully anticipates the contract to be negotiable and in place by June, 2009.
- Mr. Petersen updated the Board on the Hearing Officer's decision regarding the Springs East Airport case. The original lease reserved 100 acre feet of water for agricultural use, and two actions were addressed: confirming quantification and changing the use of water from agricultural use to commercial/residential use. A ruling by the hearing officer granted landowner, Mr. Wheadon, the 65 acre feet quantification. The District may have to appeal if future quantifications are sought on other properties. Mr. Felt stated that

he would have a recommendation for the Board when the topic was addressed in Executive Session following the Regular Meeting.

- Mr. Petersen advised the Board he, Mr. Sintas, and Ms. Hardekopf were all deposed by Mr. Booker's attorneys in regards to the Denver Basin Lease case. The deposition culminated many days of researching archived files and resources by our Attorneys, Art, Dian and himself.
- A letter Mr. Petersen read to the UBS at their last monthly Board Meeting was also read to the Board (see attached). Justified and well worded, it reflected on the working relationship the District has tried to achieve the past several years with the UBS District.

ITEM 9:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands. Water demands for January were 1.72 mgd compared to last January, 2008, of 1.50 mgd and January, 2007, of 1.6 mg. Again, water demands are higher because Woodmen Hill's utilization of their share of 350 acre feet.
- Currently the winter schedule of non-irrigation watering is in effect. Water leak season has been very minimal with one leak since the last meeting, that being at 1530 Tahlequah Dr. on February 5, 2009.
- Meter replacements are approximately 75% complete with Cycle 1 being completed and the commercial routes in Cycle 2 being 95% complete. The District's goal is to have all meters replaced by year end.

ITEM 10:

⇒ Golf Course, Pro Shop, and Maintenance

- Mr. Laxson provided his monthly report to the Board (see attached). For the month of January, there were 17 days recorded rounds of golf. January was dominated by above-normal temperatures and conditions that enabled the Course to record above-normal revenue.
- The Grill continues to be a strong contributor to the facility, and progress continues in the restroom renovation with continued help from Ken Emricson. Pikes Peak Junior Golf has put their calendar

together for the 2009 season, and it includes two stops to the Golf Course, including their end-of-the year, nine-hole tournament for competitors 13 years of age and under.

- The Golf Channel has suspended its Drive, Chip and Putt Challenge for junior golf, as they felt there was a need to re-tool the program.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the December maintenance of the Golf Course (see attached). Warmer-than-average temperatures and dry weather summarized the month of January. Golf carts are continually being serviced, tree removal and pruning is ongoing, and the rough mower was sent out for injector pump work.
- Fairway mower and greens mowers are serviced and ready for summer duty. It is hoped that in February, tree pruning will be completed and the finishing touches will be done to the equipment.

ITEM 11:

⇒ Old Business

- Through Board agreement, Mr. Petersen and legal staff was authorized to contract for seven shares of Fountain Mutual Shares. Mr. Lovato asked how the District would benefit from these shares, and Mr. Felt explained these shares represent a water right on Fountain Creek to be used as a replacement source (augmentation water) since the District is depleting Sand Creek's resources. Contract signing is scheduled for February 20, 2009, and Mr. Petersen requested the Board's approval of this contract and allow Mr. Petersen to sign the contract; the contract total is \$75,600.

*****MOTION*****

MS. JONES MADE A MOTION TO AUTHORIZE MR. PETERSEN SIGNATORY AUTHORITY FOR THE PURCHASE OF THE FOUNTAIN MUTUAL SHARES. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

ITEM 12:

⇒ New Business

There was no new business to report at this time.

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 MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

Executive Session was entered into at 6:41 p.m.

A short break was taken before Executive Session commenced.
Executive Session began at 6:49 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 MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

The Regular Session began at 8:26 p.m.

Mr. Petersen stated that the agreement with Terry Shaw and Sharon Harding-Shaw regarding the lease agreement negotiations had been finalized and asked the Board for approval and signature of the second supplement to lease agreement (see attached).

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE SECOND SUPPLEMENT TO LEASE AGREEMENT AND ALLOW FOR SIGNATURE. SECONDED BY MR. HACKER . WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

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 8:30 p.m.

Gayle Jones, Secretary

Board Members

Term Expires

Steve Hasbrouck, President
Dave Hacker, Vice President
Gayle Jones, Secretary
Robert Lovato, Director
Sean Byers, Director

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