

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

June 9, 2009

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, June 9, 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

OTHERS PRESENT

Kip Petersen	Ken White
Dian Hardekopf	Pete Heidebrecht
Jim Felt	Sara Howard
Art Sintas	David Shohet
Sandy DeCarolis	Todd Laxson
Brian Beaudette	Griff Rainford

OTHER GUESTS SIGNING ATTENDANCE LOG

Ty Keller	William Zimmerman
Assunta Manning	Jan Olson
David McRobbie	Chloe Olson
Mariah Olson	

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:32 p.m. Ms. Hardekopf called roll call of the Board of Directors, all Directors were present except for Mr. Hacker. Mr. Hasbrouck reminded the audience to sign the attendance log.

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 JUNE 9, 2009. SECONDED BY MR. BYERS. ALL BOARD MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED(4-0).

ITEM 4:

The Minutes of the Regular Meeting of May 12, 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 MAY 12, 2009. SECONDED BY MR. BYERS. ALL BOARD MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED (4-0).

ITEM 5:

⇒ Public Comments

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

- Mr. Bill Zimmerman, residing at 1879 Silver Meadow Circle approached the Board and stated that on June 1st he came to the office to buy a sod permit. He was told the sale of sod permits ended May 15th, and the next window for purchasing sod permits was September 1-30, 2009. He had already laid the sod down and he believes he wasn't informed on June 1st that he had an option to purchase a prorated, two-week permit through June 15. After a lengthy discussion, it was agreed by the Board to allow Mr. Zimmerman to purchase a sod permit to extend one week after the June 15th deadline.

*****MOTION*****

MR. LOVATO MADE A MOTION TO GRANT MR. ZIMMERMAN, OF 1879 SILVER MEADOW CIRCLE, TO PURCHASE A SOD PERMIT TO BE EFFECTIVE THROUGH JUNE 15, 2009. SECONDED BY MR. BYERS. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS APPROVED. MOTION CARRIED (4-0).

ITEM 6:⇒ Legal Report – Mr. Jim Felt

- Mr. Felt introduced Mr. Dave Shohet, one of the firms Associate Attorneys that has been diligently working on projects involving the District's legal issues; the biggest one being the Denver Basin Lease Case. Mr. Shohet stated that discussion on the Denver Basin Lease Case trial would be detailed with Mr. Petersen's Manager's report. The Board welcomed Mr. Shohet to Cherokee.
- The Replacement Plan trial commenced June 8th in Denver. Mr. Ed Meyer was the first witness for Cherokee being on the stand both June 8th and June 9th; Mr. Petersen then testified and was cross-examined on June 9th. Other witnesses for Cherokee include; Mr. Curt Wells, Mr. John Thackston, Mr. Willem Schreuder, and Mr. Greg Worden; their testimony is scheduled for the first week of trial. The schedule right now stands that Mr. Culichia will complete his questioning on June 12th, and the opposition will begin their defense on June 15th.
- Mr. Shohet reported on the Gunzelman-Poleson well which the District has had under contract for the past two and one-half years. The owner of the lease has finally been located in California and has signed the easement agreement; however, his ex-wife has since moved out of state, and she also needs to co-sign the easement agreement. The District has filed a new application for the Gunzelman-Polesen well relating to consumptive use, which the UBS will most likely not be able to deny.
- Mr. Shohet reported on the Rules Case 17-18-19, the District is appealing to the Colorado Appeals Court; and the Appellate Brief deadline is Friday, June 12th. The El Paso County Attorney is also filing in support of the District and Meridian, and Woodmen Hills and Paint Brush Hills is expected to offer their support in this appeal.

ITEM 7:⇒ Engineering Report - Mr. Ken White

- In Mr. Meyer's absence, Mr. White provided a report on the wastewater project and related issues (see attached). Glacier Construction's 11th pay request has been received and reflects \$12,897,402.15 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 Contract is \$2,736,801.12. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. BYERS MADE A MOTION TO APPROVE PAY REQUEST NO. 11 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$2,736,801.12. SECONDED BY MR. LOVATO. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (4-0).

- While giving a brief, visual presentation of the progression of work at the Wastewater Treatment Plant, Mr. White stated the yard piping was approximately 99% complete. Electrical conduit installations are close to being complete, electrical conduit runs have yet to be installed at the digester building, and light poles are currently being installed. SBR Basin No. 4's handrails are being installed, and the waste-activated sludge piping has been 99% completed in the basins.
- Interior work at the operations building is in progress including plumbing, HVAC, and drywall. The electrical building structure is complete, and the headworks building has been completed.
- The solids handling building has block work in progress, and the liquid transfer station piping and concrete is approximately 60% complete.
- Timber Line Electric and Control Corporation has submitted their third pay request and reflects a total amount earned to date of \$51,288.10. Retainage stands at 10%. Taking into account retainage and prior payments, the net amount due the Contractor is \$15,331.50. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST #3 TO TIMBER LINE ELECTRIC IN THE AMOUNT OF \$15,331.50. SECONDED BY MR. BYERS. 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. 17 has been prepared, and it requests a total of \$1,523,518.38 to be remitted to the District to cover eligible costs for April. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #17 BACK TO THE DISTRICT IN THE AMOUNT OF \$1,523,518.38. SECONDED BY MR. BYERS. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. White provided to the Board the attached Allocation of Costs on the Contractor Draw Requests and a breakdown of the Project Expenditure Reimbursement Request No. 17.

ITEM 8:⇒ Manager's Report – Kip Petersen

- Mr. Petersen stated that he anticipates the full two weeks for the Replacement Plan trial which commenced June 8th. Mr. Petersen encouraged anyone that was interested to attend any one or more days.
- The Pueblo West Board of Directors has approved the lease of 500 acre feet of water to the District for the 2009 year. With an anticipated increase next year for use of the CSU delivery system, Mr. Petersen will be looking for alternatives to purchases and delivery of water for the District.
- Mr. Shohet is in the process of preparing a lease proposal with Mr. Fontana to utilize FMIC Shares to identify a water resource for his golf course.
- Mr. Petersen reported in the attached memo that there was a ruling in the Denver Basin Lease Case. Unfortunately, the Hearing Officer ruled the leases did not give the District the right to withdraw the Denver Basin water. Although disappointing, the lease amendments received from the Stoen, Shaw, and Burnside properties have entitled the District to approximately 70% of water in the Denver Basin.
- Mr. Petersen reported that he has received the first check from Tierra Vista Communities for their housing development project on SAFB.

ITEM 9:⇒ Water/Wastewater Report – Art Sintas

- In Mr. Sintas' attached May update, he reported water demands for May, 2009, were 3.207 mgd compared to May, 2008, of 4.120 mgd and 2.632 mgd for May, 2007. Pikes Peak Wells produced 245 acre feet which equals 29% capacity. Tipton Wells has produced 19 acre feet which equals 9% of its capacity and is currently turned off. Total of all sources is 1365 acre feet.
- Water violations are down from this time last year, and 118 sod permits were sold this spring.
- The water leak survey has begun, and one leak has been detected. Slip lining in the District has begun with work being scheduled on Shawnee Dr. and Mineola St.
- Mr. Sintas stated that Mr. Gelston, the new full-time parks employee, has all the parks up and running and they are looking good.

ITEM 10:⇒ Golf Course and Pro Shop – Todd Laxson

- Mr. Laxson reported in the attached memo that May, 2009, followed the pattern that was established in March with inconsistent weekend weather, and all revenue categories continue to reflect that from the standpoint that the Course's numbers are below 2008. Spending is continually being monitored with a focus on payroll and food costs.
- May's highlights marked the end of the Colorado Springs Death & Blind program for the year with a great end-of-season tournament. The Pikes Peak Linkers started in May, and they have a program of 11 sessions.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the May maintenance of the Golf Course (see attached). May was a wet and cool month for the turf on the Course with two inches received for the month. The course is fully staffed with seasonal help and is focused on daily maintenance and upkeep in improving troubled areas.

- Greens were fertilized and verticut to help reduce thatch. Fairways are slow growing but filling in nicely. Some troubled greens have been over seeded and top dressed. Fairway bunkers on #9 have been rebuilt. Water usage has been low because of the cool and wet weather.

ITEM 11:

⇒ Old Business

There was no old business to report.

ITEM 12:

⇒ New Business

There was no new business to report.

ITEM 13:

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

*****MOTION*****

MR. BYERS 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 WERE IN FAVOR. MOTION CARRIED (4-0).

A short break was taken at 7:38 p.m. before Executive Session commenced. Executive Session was entered into at 7:51p.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. VANDENBOOGAARD. ALL BOARD MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED (4-0).

The Regular Session began at 8:58 p.m.

Mr. Petersen stated that discussion to file appeals on the Springs East Airport water and the Denver Basin Lease case were held during the executive session and at this time motions need to be made if the Board wants to have Legal Staff file for these appeals.

*****MOTION*****

MR. BYERS MADE A MOTION TO AUTHORIZE THE FILING OF THE APPEAL ON THE SPRINGS EAST AIRPORT WELLS TO THE EL PASO COUNTY DISTRICT COURT. SECONDED BY MR. LOVATO. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

*****MOTION*****

MR. BYERS MADE A MOTION TO AUTHORIZE THE FILING OF AN APPEAL ON THE DENVER BASIN LEASE CASE TO THE GROUND WATER COMMISSION. SECONDED BY MR. VANDENBOOGAARD. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

At this time, Mr. Lovato asked that the Board excuse Mr. Hacker from this evenings Board meeting.

*****MOTION*****

MR. LOVATO MADE A MOTION TO EXCUSE MR. HACKER FROM THE JUNE 9, 2009 BOARD MEETING. SECONDED BY MR. BYERS. THERE WAS NO FURTHER DISCUSSION. 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 9:05 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