

RECORD OF PROCEEDINGS

**MINUTES OF A REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE
CHEROKEE METROPOLITAN DISTRICT
HELD
March 13, 2018**

A Regular Board of Directors' Meeting of the Cherokee Metropolitan District was held on March 13, 2018, at 1:00 p.m. at the District offices located at 6250 Palmer Park Boulevard, Colorado Springs, CO. The meeting was open to the public.

ATTENDANCE:

In attendance were Directors:

Jan Cederberg; President
Dave Mattes; Vice-President
Melody Helton; Secretary
Larry Keleher; Director
David Hacker; Director

Also, in attendance were:

Kurt Schlegel; General Manager
Cathy Fromm; Chief Financial Officer
Kathryn Sellars; General Counsel
Peter Johnson; PC Johnson Attorney at Law, LLC
Will Koger; Forsgren Associates, Inc.
Al Watson; Development Services, Inc.
Roger Sams; GMS, Inc.
Gary Barber
Jonathon Smith; CMD Staff
Brian Beaudette; CMD Staff
Tyler Drennan; CMD Staff
Dan Farmer
Assunta Manning
Roger Stolz
Jessie Trevino
and approximately 53 residents of The Springs Mobile Home Park

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CALL TO ORDER:

Mr. Schlegel conducted a roll call of Officers and President Cederberg, noting that a quorum of the Board was present, called the meeting to order at 1:12 p.m. Director Cederberg led those in attendance in the Pledge of Allegiance.

**CONFLICTS &
DISCLOSURE
STATEMENTS:**

Mr. Schlegel stated that the required Conflict Disclosure Statements have been filed with the Colorado Secretary of State. No additional or unreported conflicts or disclosures were noted by any of the Directors.

AGENDA:

Director Keleher requested that item #6, Consideration of an Amendment to the District's 2018 Rate and Fee Schedule, be moved up in the agenda to immediately precede item #3 – Consent Agenda, and moved that the Board amend the agenda as described. Upon a second by Director Helton, a vote was taken and the motion carried unanimously.

Director Helton then moved that the Board approve the agenda as amended. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.

UNFINISHED BUSINESS:

2018 Rate and Fee Schedule Amendment. Mr. Schlegel stated that the proper notification for consideration of an amendment to the District's Rate and Fee Schedule, and required Public Hearing, had been made. He then explained the process that the District went through during 2016 and 2017 for reviewing and adjusting the District's Rate and Fee schedule. A professional rate and fee analysis was completed and presented to the Board of Directors in late 2016, public meetings were held to discuss the proposed rate and fee schedule, residents requested that all rate payers be treated the same and that no one entity or person receive special consideration, and the Directors suggested several changes to the proposed rate and fee schedule based on equity for all consumers. A public hearing on the proposed rate and fee schedule for 2018 was advertised as required by law and was held at the Board's November 14, 2017 meeting. Subsequently the Board approved and adopted the 2018 rate and fee schedule to take effect in January 1, 2018.

After invoices for water and wastewater services were mailed to rate payers in January 2018, the District received a letter from Roberts Communities, the management of The Springs Mobile Home Park, citing that the increase was unfairly burdening their residents for water being delivered to the mobile home park. Mr.

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Schlegel explained that all rate payers in the District were placed on an inclining block rate, per the comments received from the public and direction given by the Board. While staff expected increases in bills it was evident that large connection customers, those being the 2” to 6” meter connections, were being adversely affected by this rate structure. Mr. Schlegel stated that he is recommending that the District institute a single block rate for all 2” through 6” metered connection rate payers and for all bulk water sales.

Director Cederberg opened the Public Hearing regarding the requested rate and fee schedule amendment and the Directors then requested comments from those in attendance. Ten (10) residents and business owners stated their opposition or support for the adjustment in the rates charged for large connection consumers.

Director Cederberg closed the Public Hearing.

Director Helton moved that the Board approve a Resolution Amending the District’s 2018 Rate and Fee schedule as presented. Upon a second by Director Mattes a roll call vote was taken, which resulted in the following:

Director Cederberg - YES

Director Mattes - YES

Director Helton – NO

Director Keleher – NO

Director Hacker – NO

The motion failed 3 opposed and 2 in favor. As a result of this vote there would be no adjustment or amendment to the District’s 2018 Rate and Fee Schedule.

CONSENT AGENDA:

The Consent Agenda consists of matters that occur in the normal course of business and are approved with one motion and vote. Director Keleher moved that the Board approve the Consent Agenda as presented. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.

CORRESPONDENCE:

None Presented.

PUBLIC COMMENT:

Mr. Sinton, a resident of the District, stated that the Board was not listening to the people.

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NEW BUSINESS:

Inclusion Petition from the Arrowhead Mobile Home Park: Mr. Schlegel stated that the proper notification for consideration of the Inclusion Petition, and required Public Hearing, had been made. Mr. Schlegel stated that he received an inclusion petition from the applicant to include the Arrowhead Mobile Home Park into the Cherokee Metropolitan District for the provision of wastewater treatment. The mobile home park currently treats wastewater generated from the facility but is no longer compliant with the State's requirements; is located in close proximity to the District's waste water transmission line; and the District's water reclamation facility (WRF) has sufficient reserve capacity to handle the additional load, if the inclusion is approved by the Board of Directors.

The applicant's representatives, Ms. Adrienne Angelos and Ms. Alice Arsenault of Element Engineering, explained the reasoning behind the request for inclusion and stated that the applicant will be responsible for the equipment and installation required to tap into the District's infrastructure.

Director Cederberg opened the Public Hearing on the matter.

Mr. Orville Brown asked for clarification on the location of the mobile home park.

Hearing no other public comment, Director Cederberg closed the public hearing.

Director Helton moved that the Board approve and adopt Resolution #2018-03 Approving the Inclusion Petition as presented, and direct staff to complete the necessary agreements required to complete the transaction. Upon a second by Director Mattes, a vote was taken and the motion carried unanimously.

EXECUTIVE SESSION:

Director Cederberg moved that the Board enter into an Executive Session for the following items:

- Pursuant to C.R.S. § 24-6-402(4)(b), for a conference with the District's General Counsel for purpose of receiving legal advice purpose of receiving legal advice on specific legal questions and pursuant to C.R.S. § 24-6-402(4)(e), for determining positions relative to matters that may be subject to negotiations, developing a strategy for negotiations, and instructing negotiators, concerning several pending legal matters.

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Upon a second by Director Helton, a vote was taken and the motion carried unanimously. At this point in time the Board and staff moved the meeting into the District's Board Room for the remainder of this meeting. Members of the public and uninvolved staff were asked to leave the room and the Board entered into Executive Session at 1:57 p.m.

Upon a duly made motion, second, and subsequent vote the Executive Session was terminated at 2:36 p.m. The Executive Session included the following individuals:

Director Cederberg	Ms. Sellars
Director Mattes	Mr. Smith
Director Helton	Mr. Schlegel
Director Keleher	
Director Hacker	

The General Session of the Board of Director's meeting was reconvened at 3:03 p.m. The public and members of staff were invited back into the Boardroom.

RECONSIDERATION OF EARLIER AGENDA ITEM:

Director Helton moved that the Board reconsider their earlier decision to deny the proposed amendment to the District's Rate and Fee Schedule. Upon a second by Director Hacker, a vote was taken and the motion carried four (4) in favor and one (1), Director Keleher, opposed.

After some discussion regarding the proposed amendment to the Rate Schedule **Director Mattes moved that the Board approve Resolution #2018-04, an Amendment to the District's Rate and Fee Schedule, specifically altering the rate for large connection water customers. Upon a second by Director Hacker, a roll-call vote was taken, which resulted in the following:**

**Director Keleher – NO
Director Mattes – YES
Director Helton – YES
Director Hacker – YES
Director Cederberg - YES**

The motion passed 4 in favor to 1 opposed

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ATTORNEY'S ITEMS:

Mr. Johnson addressed the Board regarding current water issues he is working on for the District including, but not necessarily limited to:

- Case #17-3036 - Cherokee / Fontana, Addition of Fountain Mutual Irrigation Company (FMIC) Shares
 - Counsel sent comments on the proposed decree to Fontana's counsel on February 27, 2018
 - Received a revised proposed decree on March 8, 2018
 - Fontana's counsel has circulated a draft Certificate of Compliance, to be filed soon
- Horse Creek Water Users Association / Horse Creek Farms
 - Nothing new to report at this time
- Case #08GW71 - Cherokee Metropolitan District's Replacement Plan
 - Hearing Officer has ordered a Status Conference for May 11, 2018
 - Briefing deadlines will be established at that time
- Colorado Ground Water Commission (CGWC) Rulemaking Hearing
 - Counsel has filed Cherokee's Position Statement on February 15, 2018
 - Counsel has been in contact with other parties regarding their position statements and common topics that will be the subject of direct testimony and cross examination at the hearing
- Ms. Kerri Preisser – Dawson Aquifer Water
 - Nothing new to report at this time

WATER RIGHTS & CONSULTANT REPORT:

Water Rights Consultant Report: Mr. Barber presented his monthly report, which included the following items:

- Poleson Well and Water right
 - 72 Acre Feet / Year available
 - Seeking water quality and historical pumping data
 - Will require a change of use request
- Horse Creek Water Rights
 - Awaiting a Horse Creek Water Users meeting to review terms of possible proposal
- Springs East Airport Water Rights
 - 65.9 Acre Feet / Year available
 - Permitted for residential and commercial uses
 - "Banking" provisions included

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- Colorado Water Conservation Board(CWCB) and Pikes Peak Regional Water Authority (PPRWA) Grant Application
 - CWCB staff have reviewed the application favorably
 - Awaiting a decision on the Grant
- The Board directed Mr. Schlegel to schedule an Executive Session Item for the Board's April 2018 meeting to discuss potential water acquisitions

PROJECT AND ENGINEERING REPORTS:

Development Services, Inc.: Mr. Watson updated the Board on the status of the following projects:

- Sundance Water Project:
 - Sacrificial anodes installed at all prescribed locations
 - Test Stations are complete
 - System testing and report due by March 30, 2018
- Water Tanks #1 & #2 Rehabilitation Projects
 - Tank #1 erection is underway – 65% complete
 - Tanks #2 & #4 Cathodic Protection (CP) design is complete with installation of equipment beginning in late March 2018
 - Engineering for chlorination modifications are underway
- Ellicott 30" Pipeline Rehabilitation / Repair Project
 - Presented data regarding pipeline capacity analysis including proposed budgets for 24" vs. 30" options
 - The Board members asked several questions regarding the options presented
 - No final decision on sizing was made at this meeting
- Sundance Wellfield Expansion
 - Well #DA-1 drilled
 - Screen, casing, and gravel pack installed
 - Gas Chlorination plans have been submitted to the Colorado Department of Health and Environment (CDPHE)

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- Mr. Watson presented his proposal for Project Management for Additional Storage and Chlorination Tanks, and Addition of Filtration Elements to the District's Sundance System
 - **Director Mattes moved that the Board approve the proposal for Project Management as presented. Upon a second by Director Helton, a vote was taken and the motion carried unanimously.**

GMS, Inc.: Mr. Sams reported on the status of the following projects:

- Sweetwater Well No. 5
Mr. Sams presented the following items to the Board for their consideration –
 - Memorandum of Understanding with Tri-States Generation and Transmission Association for use of land within the existing Tri-States easement
 - Ms. Sellars will be meeting with Tri-State representatives on March 14, 2018 to discuss
- District Operational easement
 - Required for perpetual benefit for construction, operation, and maintenance of Sweetwater Well #5
 - **Director Helton moved that the Board Approve an Agreement to Create a Permanent Utility and Access Easement on District Owned Property for the District's Perpetual Use near Sweetwater Well No. 5 and authorize the President of the Board of Directors to Execute the Easement Agreement Granting the Easement and Accepting the Easement on Behalf of the District. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.**
- Status Report on on-going projects
 - Mr. Sams provided a written report on GMS's activities in January 2018
- AFCURE activities and preparation, with District's legal counsel, for WQCC Regulation No. 32 Issues Formulation Hearing (IFH) and other WQCD workgroup and stakeholder activities
 - Triennial review and rulemaking hearing scheduled for June 12, 2018
- Mr. Sams also provided a document that describes District related Development Reviews that are in-process as of March 6, 2018

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Forsgren Associates, Inc.: Mr. Koger updated the Board on the status of the following projects:

- Water Reclamation Facility (WRF) Compliance Support
 - Mr. Koger presented a current project timeline tracking and projection tool for the Board and explained their progress to date
 - Evoqua will be able to provide their NEXED EDR prototype for testing at the WRF, cost of which will not exceed the amount available from the General Electric
 - Tech Evaluation report due to the Board in March
 - Permitting and planning will follow the Board's decision and direction
- Phase 1 Ellicott Pipeline Professional Services
 - Mr. Koger presented a current project timeline tracking and projection tool for the Board and explained their progress to date
- Small Hydropower Feasibility Study
 - Mr. Koger presented a current project timeline tracking and projection tool for the Board and explained their progress to date
- Mobile Office Permitting with El Paso County
 - Mr. Koger presented a current project timeline tracking and projection tool for the Board and explained their progress to date
 - El Paso County Planning Commission will discuss these permit applications at their March 20, 2018 meeting
- Headworks Facility Access
 - Mr. Koger presented a current project timeline tracking and projection tool for the Board and explained their progress to date
 - Working to schedule a meeting between District staff and consultants, Colorado Springs Utilities, Peterson AFB personnel, and Colorado Springs Airport staff to discuss options
- WRF Compliance Implementation Support #AS-12
 - Mr. Koger presented a proposed agreement for the preliminary design and CDPHE Site Application for Total Dissolved Solids (TDS) removal and described the activities that will take place for this portion of work

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- **Director Mattes moved that the Board approve and execute Forsgren Associates' Additional Engineering Services Agreement #AS-12, as presented, for a cost not to exceed \$527,300.00. Upon a second by Director Keleher, a vote was taken and the motion carried unanimously.**

FINANCIAL ITEMS:

Review of Cash Position and Financial Statements: Ms. Fromm presented the District's Unaudited Cash Position and Financial Statements dated January 2018 to the Directors for their review and discussed the contents in detail with the Board members.

Agreement to Provide Arbitrage Services: Ms. Fromm presented a proposal from Causey Demgen & Moore P.C. to provide calculations of the arbitrage rebate liability, if any, associated with the 2012 Series Water and Wastewater Enterprise Revenue Bonds and Series 2013 Water and Wastewater Enterprise Revenue Bonds. Director Helton moved that the Board approve the proposal as presented. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.

Ratification of Claims Paid Between Meetings: Mr. Schlegel presented a list of Water & Wastewater Account claims that were previously reviewed by Directors and paid, for the period that closed on February 15, 2018. After review of these claims Director Helton moved that the Board ratify the payment of claims totaling \$920,938.94, represented by checks #45163 through #45276. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.

Mr. Schlegel presented a list of Golf Course Account claims that were previously reviewed by Directors and paid, for the period that closed on February 15, 2018. After review of these claims Director Helton moved that the Board ratify the payment of claims totaling \$34,343.45, represented by checks #10430 through #10446. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.

Mr. Schlegel presented a list of Water and Wastewater Account claims that were previously reviewed by Directors and paid, for the period that closed on February 28, 2018. After review of these claims Director Helton moved that the Board ratify the payment of claims totaling \$205,810.09, represented by checks #45277 through

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#45368. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.

Mr. Schlegel presented a list of Golf Course Account claims that were previously reviewed by Directors and paid, for the period that closed on February 31, 2018. After review of these claims Director Helton moved that the Board ratify the payment of claims totaling \$14,405.27, represented by checks #10447 through #10467. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.

District Credit Card Statements: Mr. Schlegel presented the Board with a summary of the District's credit card charges dated February 28, 2018 for their review. These statements have already been processed and paid.

The Board members requested a brief intermission at 4:30 p.m.

Director Cederberg reconvened the business meeting at 4:52 p.m.

STAFF REPORTS:

District Department Managers provided their monthly operational reports in the Board's meeting packets. The following were called out for specific items for consideration or questions from the Board.

Golf Course Operations Report – Mr. Laxson

- Purchase request to replace five (5) golf carts was presented and the Board requested additional information before considering the request
 - Mr. Schlegel reintroduced the request to purchase replacement golf carts and presented three bids for the Board's consideration
 - Directors discussed the pros and cons of replacing the five golf carts and criteria for replacement
 - **Director Helton moved that the Board approve the purchase of five (5) 2017 Precedent Gas Cars at a total cost of \$22,500.00. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.**
- Purchase request for the replacement of two (2) heating, ventilation, and air conditioning (HVAC) units at the Golf Course
 - Mr. Schlegel presented three (3) quotes obtained to replace both HVAC units at the Golf Course Clubhouse and recommended that the contract be

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- awarded to Tolin Mechanical since they are the current maintenance provider and have familiarity with the systems in place.
- Director Cederberg asked why there was a \$1,900 difference between the low bid and the recommended bid, and to identify what brand of HVAC equipment would be installed by each vendor
- Equipment brands were not able to be identified at this time
- The Board requested additional information, which staff will provide and reintroduce the item for the Board's consideration at their April 2018 meeting
- Purchase request to replace the exterior doors at the Golf Course Clubhouse
 - Based on the recent vandalism at the facility staff is suggesting that all exterior glass doors be replaced for security and safety reasons
 - Three (3) quotes were received and staff recommended that the contract be awarded to City Glass based on cost and design
 - **Director Mattes moved that the Board approve the purchase request as presented and award the contract to City Glass Company at a cost to not exceed \$11,614.87. Upon a second by Director Helton, a vote was taken and the motion carried unanimously.**
- Mr. Schlegel presented a proposal from the RV Golf Club that would provide free advertising for the Golf Course if the District would allow overnight parking of club members recreational vehicles
 - The Board members expressed concerns regarding safety, overcrowding of the parking lot, and vandalism
 - No action or directed was taken by the Board

MANAGER'S ITEMS:

General Manager Position

Mr. Schlegel stated that staff has received Three (3) applications or resumes for the full-time General Manager position, which has been advertised again by the District. The application period for this position will close on March 30, 2018. The Directors discussed the qualifications required of possible applicants as well as the designated salary or pay range for this position. The Directors requested that staff increase the advertised salary range for this position to \$90,000.00 to \$125,000.00 per year. Mr. Schlegel will work with the

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Human Resources Specialist to make this amendment and update the advertisements for this position.

PUBLIC COMMENT:

Ms. Assunta Manning questioned the estimated water use costs for residents of the Springs Mobile Home Park. Mr. Schlegel stated that the District invoices the Trailer Park for water consumption and waste water collected and treated. Staff has estimated individual costs based on the amended water rate schedule for large connection consumers and after calculating each lot's estimated use and percentage of cost for the basic monthly charge, they will be charged less than other single family customers in the District.

Mr. Sintas commented that he believes the Board meetings are too long and that routine business matters should be left to District staff to handle.

DIRECTOR'S ITEMS & COMMENTS:

Director Helton commented on:

- Status of the Springs Mobile Home Park street lighting fee
 - Mr. Schlegel stated that he has requested verification that Robert's Communities is being invoiced for, and paying the electrical bill for street light in the park. Once he receives verification of this the street light fee for this customer will be examined and adjusted in necessary.
- Requested a written comparison of pre-2018 water rates and current rates for large connection customers
- Commented on the TDS compliance issues being faced by the Round Mountain Metropolitan District
- The District's policy on Director's being able to purchase their District issued computer upon leaving office
 - **Director Helton moved that the Board allow Directors to purchase their District owned computers when leaving office. Upon a second by Director Mattes, a vote was taken and the motion carried unanimously.**

Director Cederberg stated, in reply to Mr. Sintas' comments regarding the Board's involvement with routine District business matters, that the Board members wish to be actively involved in and have oversight of Capital purchases.

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NEXT MEETING:

**NEXT BOARD MEETING IS SCHEDULED FOR TUESDAY –
April 10, 2018 @ 1:00 p.m.**

ADJOURNMENT:

There being no further business to come before the Board, upon motion duly made, seconded and unanimously carried, the meeting was adjourned at 6:01 p.m.

Respectfully Submitted,



Secretary for the Meeting



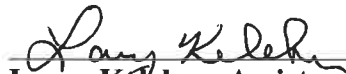
Jan Cederberg; President



Dave Mattes; Vice President



Melody Helton; Secretary



Larry Keleher; Assistant Secretary



David Hacker; Assistant Secretary