

RECORD OF PROCEEDINGS

**MINUTES OF A REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE
CHEROKEE METROPOLITAN DISTRICT
HELD
April 10, 2018**

A Regular Board of Directors' Meeting of the Cherokee Metropolitan District was held on April 10, 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
Robert Hernandez; CMD Staff
Dan Farmer
Fayne McDowell
Tim Wellman
Heather McDaniel
Dara Otto
Charles Samuel
Bryan Long
Randle W. Case II
Steve Mulliken
Rene Sintas
Art Sintas

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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 1:04 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 Helton moved that the Board approve the agenda as presented. Upon a second by Director Mattes, a vote was taken and the motion carried unanimously.

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:

- Email received from Mr. Fayne McDowell on April 5, 2018 regarding his interest in a lease of District property for cattle grazing
- Letter received from Roberts Communities on April 9, 2018 requesting a refund for Street Light fees paid since 2005
- Email received from the Colorado Department of Health & Environment on April 5, 2018 approving the District's Total Dissolved Solids (TDS) Implementation Plan extension request

PUBLIC COMMENT:

Mr. Sintas spoke about the District's amendment to the 2018 Rate and Fee Schedule, his opinion regarding the perceived fairness and equity of the amended rate schedule, and accused Mr. Schlegel of calling him a liar.

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NEW BUSINESS:

Inclusion Petition – County Line Estates, LLC and Case International Company: Mr. Schlegel stated that the proper notification for consideration of the Inclusion Petition, and required Public Hearing, had been made. A petition for inclusion was received from the applicant, Mr. Randy Case, to include an area located South of Hwy 94, North of the Schriever Air Force base, East of Curtis Road, and West of Enoch Road, for the provision of potable water delivery and wastewater collection and treatment. The land is currently vacant and as the applicant, Mr. Case, explained will be developed in phases over many years and may include up to 3,000 single family homes and some commercial development.

Director Cederberg opened the Public Hearing on the matter at 1:30 p.m. No comments were received from the public in attendance and Director Cederberg closed the public hearing at 1:31 p.m.

Director Helton moved that the Board approve and adopt Resolution #2018-05 Approving the Inclusion Petition as presented, and direct staff to complete the necessary agreements required to complete the transaction. Upon a second by Director Hacker, a vote was taken and the motion carried unanimously.

Inclusion Petition – University of Colorado Foundation: Mr. Schlegel stated that the proper notification for consideration of the Inclusion Petition, and required Public Hearing, had been made. A petition for inclusion was received from the applicant, University of Colorado Foundation, to include an area located South of Hwy 94, North of the Schriever Air Force base, East of Curtis Road, and West of Enoch Road, for the provision of potable water delivery and wastewater collection and treatment. The land is currently vacant and as the applicant's representative, Mr. Steve Mulliken, explained will be developed as a training campus in conjunction with the proposed County Line Estates.

Director Cederberg opened the Public Hearing on the matter at 1:35 p.m.

Mr. Sintas asked how much water will be required to service this inclusion and where the water for the proposed development will come from. Mr. Schlegel stated that the applicant has not yet provided the District with their projections or calculations of water needs and that these details will be identified during the writing and approval of the requisite Inclusion Agreement.

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No other comments were received from the public in attendance and Director Cederberg closed the public hearing at 1:36 p.m.

Director Helton moved that the Board approve and adopt Resolution #2018-06 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.

Grazing Lease: Mr. Schlegel presented to the Board a proposed extension to an existing lease of District owned property with Mr. Dave Henderson for cattle grazing. The terms and conditions of the lease remain as they were in 2017. Director Helton asked if staff had adjusted the cost of the lease and Mr. Schlegel explained that they had not but are planning to re-evaluate all land leases for 2019. **Director Helton moved that the Board approve the Lease as presented. Upon a second by Director Keleher, a vote was taken and the motion carried unanimously.**

Engineering Presentation from Souder, Miller, and Associates: Mr. Schlegel explained that staff wishes to engage with additional engineering firms for future projects, and to that end has invited Mr. Wellman and Ms. McDaniel to make a brief presentation regarding their firm for the Board members. Following the presentation the Board members asked several questions of Mr. Wellman and Ms. McDaniel. Mr. Schlegel then stated that no Board action was required at that time but that he would develop a Professional Services Agreement for the Board's consideration at a future meeting. Director Cederberg requested a comparison of firms and their associated rate and fee schedules to use as a frame of reference.

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 water rights counsel for the purpose of receiving legal advice regarding the acquisition of certain water rights.
- 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 for determining positions relative to matters that may be subject to negotiations, developing a strategy

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for negotiations, and instructing negotiators, concerning several pending legal matters.

Upon a second by Director Hacker, a vote was taken and the motion carried unanimously. At this point members of the public and staff not involved in the Executive Session were asked to leave the room and the Board entered into Executive Session at 1:52 p.m.

Upon a duly made motion, second, and subsequent vote the Executive Session was terminated at 3:05 p.m. The Executive Session included the following individuals:

| | |
|--------------------|--------------|
| Director Cederberg | Ms. Sellars |
| Director Mattes | Mr. Johnson |
| Director Helton | Mr. Barber |
| Director Keleher | Mr. Smith |
| Director Hacker | Mr. Schlegel |

After a short recess the General Session of the Board of Director's meeting was reconvened at 3:35 p.m. The public and members of staff were invited back into the Boardroom.

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 #09CW115 - Cherokee / Fontana, Addition of Fountain Mutual Irrigation Company (FMIC) Shares
 - Fontana is close to reaching a stipulation with remaining opposers
 - Counsel will review the decree when available and will address any remaining concerns with staff
- Horse Creek Water Users Association / Horse Creek Farms
 - Counsel requested additional information from Horse Creek Farms attorney and does not anticipate a reply until May 2018
- Case #08GW71 - Cherokee Metropolitan District's Replacement Plan
 - Counsel has discussed the Motion with Counsel for the Meridian Service Metropolitan District (MSMD)
 - MSMD would like to file a brief supporting the Motion
 - The required Notice was published in two subsequent publications of the Ranchland News

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- Counsel will revise and refine the Motion in advance of the May 11 status conference
- Colorado Ground Water Commission (CGWC) Rulemaking Hearing
 - Counsel has been in contact with other interested parties regarding their position statements and common topics that will be the subject of direct testimony and cross examination at the hearing
 - Counsel is examining the benefit of joining other entities with similar concerns regarding this Hearing
 - Counsel will coordinate with Cherokee staff and other opposers regarding a cooperative effort
- Ms. Kerri Preisser – Dawson Aquifer Water
 - Nothing new to report at this time
 - The Board directed Mr. Schlegel to contact Ms. Preisser regarding the issue and discuss her concerns

Ms. King – Arkansas River Basin, Regulation #32 Hearing: Mr. Schlegel addressed the Board regarding Ms. King’s representing the District at the Hearing. The District has an executed Professional Service Agreement (PSA) with Ms. King for her legal representation and assistance and Mr. Schlegel has requested that the District execute a Work Order with Ms. King that describes her assigned tasks and defines an amount of remuneration for her services. Ms. King has provided an estimate to Mr. Schlegel for an amount to not exceed \$9,000.00 for her work on behalf of the District. The Board members approved of the concept and directed Mr. Schlegel to develop a proposed work order and present to the Board for their review and consideration at the May business meeting.

WATER RIGHTS & CONSULTANT REPORT:

Water Rights Consultant Report: Mr. Barber left the meeting following the Executive Session due to a prior commitment and the Board members reviewed Mr. Barber’s report to the Board, 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
 - Mr. Johnson and Mr. Riviezzo (Horse Creek Water Users Association Counsel) are in discussions regarding this matter

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- Springs East Airport Water Rights
 - Mr. Barber is representing the owner of this right
 - 65.9 Acre Feet / Year available
 - Permitted for residential and commercial uses
 - “Water Banking” provisions included
- Colorado Water Conservation Board (CWCB) and Pikes Peak Regional Water Authority (PPRWA) Grant Application
 - The Grant application has been approved
 - Next step is to develop detailed budgets and organize vendors / contractors to accomplish tasks identified in the Grant application
 - Will require \$112,500 in matching funds from PPRWA member organizations
- Letter of Engagement for Water Rights Brokerage
 - Mr. Barber requested that the Board consider an extension to his relationship with the District
 - Mr. Schlegel suggested that the District execute a PSA with Mr. Barber and then approve / issue specific work orders for defined tasks
 - The Board directed Mr. Schlegel to work with Counsel to establish the PSA and associated work orders with Mr. Barber

PROJECT AND ENGINEERING REPORTS:

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

- Sundance Water Project:
 - All Work is Complete!
- Water Tanks #1 & #2 Rehabilitation Projects
 - Tank #1 erection is complete
 - Tanks #2 & #4 Cathodic Protection (CP) design is complete with installation of equipment beginning in late May 2018
 - Engineering for chlorination modifications are underway
- Ellicott 30” Pipeline Rehabilitation / Repair Project
 - After review of all documentation available and provided by staff and consultants the Board members directed staff to proceed with planning to re-line, or sleeve, the pipeline, which will reduce the diameter to 24” thereby increasing the velocity of water in the pipeline and reduce sedimentation in the line and increase efficiency

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- Sundance Wellfield Expansion
 - Drilling is complete on both new wells
 - Test pumping is scheduled to take place over the next two (2) weeks

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 is continuing to work with Tri-State representatives and anticipates presentation of a finalized easement agreement at the Board's May business meeting
 - Drilling and development is scheduled to be complete by May 20, 2018, weather and equipment dependent
- Status Report on on-going projects
 - Mr. Sams provided a written report on GMS's activities in March 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 April 3, 2018
- **Director Mattes requested a complete list of all active projects that GMS is working on for the District**
 - Mr. Sams acknowledged the request and stated he would provide by the Board's next meeting
- **Director Helton Requested that Mr. Sams provide more detailed information on their monthly invoices**
 - Mr. Sams acknowledged this request and will direct GMS staff to provide more detailed information on invoicing

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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 delivering their NEXED EDR prototype for testing at the WRF the week of April 16, 2018
 - Tech Evaluation report due to the Board in May 2018
 - 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
 - Recognized and acknowledged the Board's decision to proceed with slip lining of the existing pipeline
- 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
 - Cherokee staff has met with neighbors in the area and are examining alternatives to a mobile office, based on pricing
 - Mr. Schlegel directed staff to request an extension for the next meeting with the El Paso County Planning Commission, pending Cherokee staff research
- Albrecht Well Easements
 - Mr. Koger updated the Board on their progress with this matter
 - This matter has taken more time to complete than originally estimated due to easement complexity
 - Mr. Koger presented Amendment No. 2 to Forsgren Work Order Agreement – Albrecht Well Easements for the Board's consideration
 - **Director Helton moved that the Board approve and execute Forsgren Amendment No. 2 to the Work Order**

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Agreement for Albrecht Well Easements at an additional cost to not exceed \$10,000.00. Upon a second by Director Mattes, a vote was taken and the motion carried unanimously

- Headworks Facility Access
 - Mr. Koger presented a current project timeline tracking and projection tool for the Board and explained their progress to date
 - Meeting between District staff and consultants, Colorado Springs Utilities, Peterson AFB personnel, and Colorado Springs Airport staff was held to discuss potential options
 - Mr. Koger presented Forsgren Additional Engineering Services Agreement #AS-1: Additional Access Options
 - Requesting additional funding in order to complete the process already begun
 - **Director Helton moved that the Board approve and execute Forsgren #AS-1 for Additional Access Options at an additional cost to not exceed \$14,100.00. 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 February 2018 to the Directors for their review and discussed the contents in detail with the Board members.

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 March 15, 2018. After review of these claims Director Helton moved that the Board ratify the payment of claims totaling \$541,822.17, represented by checks #45369 through #45476. 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 March 15, 2018. After review of these claims Director Helton moved that the Board ratify the payment of claims totaling

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\$9,789.60, represented by checks #10468 through #10480. 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 March 31, 2018. After review of these claims Director Helton moved that the Board ratify the payment of claims totaling \$489,783.33, represented by checks #45477 through #45590. 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 March 31, 2018. After review of these claims Director Helton moved that the Board ratify the payment of claims totaling \$37,806.87, represented by checks #10481 through #10504. 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 March 28, 2018 for their review. These statements have already been processed and paid.

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.

Water Treatment, Water Distribution, and Wastewater Collections – Mr. Smith

- Mr. Smith presented his monthly report which now includes a chart depicting the District's available monthly Water Supply statistics vs. Water Demand
 - The Directors stated that they appreciated this information and approved of the format, and requested that this information be posted to the District's website and updated monthly
- 2018 Booster Station Upgrade – Capital Spending Request
 - Mr. Smith described the project, which has been approved by the Board during the 2018 budget process and presented justification for a sole-source request with Front Range Winwater

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- **Director Helton moved that the Board approve the Purchase Request for Booster Station Upgrades as presented. Upon a second by Director Keleher, a vote was taken and the motion carried unanimously.**
- 2018 Distribution Sampling Stations – Capital Spending Request
 - Mr. Smith described the project, which has been approved by the Board during the 2018 budget process and presented justification for a sole-source request with R & R Ditching
 - **Director Helton moved that the Board approve the Purchase Request for Additional Distribution Sampling Stations as presented. Upon a second by Director Mattes, a vote was taken and the motion carried unanimously.**

Technical Services Division – Mr. Beaudette

- Hazards Communication Program – Mr. Hernandez
 - Mr. Hernandez briefly explained the need for and the development process of the District’s Hazard Communication Program
 - This program is designed to increase District employee awareness of hazardous chemicals and their effect on one’s health if improperly handled or used

Golf Course Operations Report – Mr. Laxson

- Heating Ventilation and Air Conditioning (HVAC) Purchase request for the replacement of two (2) HVAC units at the Golf Course
 - Mr. Schlegel presented three (3) quotes obtained to replace both HVAC units at the Golf Course Clubhouse, that included the additional information that Board members requested at their March 2018 business meeting
 - **Director Helton moved that the Board approve the quote received from HVAC Solutions at a cost to not exceed \$17,845.00. Upon a second by Director Keleher, a vote was taken and the motion carried unanimously**

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MANAGER'S ITEMS:

2018 Election

- Mr. Schlegel briefed the Board on preparations for the May 8, 2018 election

General Manager Position

- Mr. Schlegel presented the Board with a memorandum from Mr. Ortega that included four (4) Resumes and/or applications that had been received prior to the March 31, 2018 posting deadline.
 - The Board members discussed the process and weighed options available to them regarding the matter
 - **Director Helton moved that the Board delay any action on this matter until after the May 8, 2018 election and the seating of newly elected Directors. Upon a second by Director Keleher, a vote was taken and the motion carried unanimously**

May 2018 Business Meeting

- Mr. Schlegel explained that the Board's next meeting is scheduled for Tuesday – May 8, 2018, which is the same day as the Metropolitan District's election for Directors.
 - The Board members requested that Mr. Schlegel schedule and prepare to hold the May business meeting on Wednesday – May 9, 2018 at 1:00 p.m.

PUBLIC COMMENT:

Mr. Sintas commented that he believes the Board should have taken more time to adequately make a choice regarding direction to staff and consultants for the Ellicott pipeline rehabilitation project and he believed their choice to be a poor one.

DIRECTOR'S ITEMS & COMMENTS:

Director Mattes stated that it has been nice working with the current Board members and appreciated their interactions with one another.

NEXT MEETING:

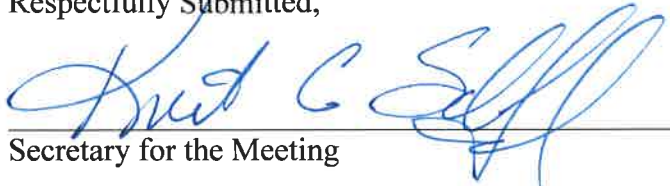
NEXT BOARD MEETING IS SCHEDULED FOR WEDNESDAY – MAY 9, 2018 @ 1:00 p.m.

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ADJOURNMENT:

There being no further business to come before the Board, upon motion duly made, seconded and unanimously carried, the meeting was adjourned at 5:23 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