

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

October 9, 2007

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, October 9, 2007, at 5:29 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Ted Schubert	Dave Hacker
Andy Anderson	Robert Lovato
Gayle Jones	

OTHERS PRESENT

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

OTHER GUESTS SIGNING ATTENDANCE LOG

Jim and Judy Burnside	Mary Hernandez
John Hill	William Beahan
Chloe Olson	Jan Olson
Heath Herber	

ITEM 1:

The meeting was called to order by Chairman Ted Schubert at 5:30 p.m.

Ms. Hardekopf called roll call of the Board of Directors. All were present.

ITEMS 2 AND 3:

Mr. Schubert asked if there were any changes or amendments that needed to be made to the agenda. There were none noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE AGENDA OF OCTOBER 9, 2007. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 4:

The Minutes of the Regular Meeting of September 11, 2007, were reviewed. No changes were noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE REGULAR MEETING OF SEPTEMBER 11, 2007. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 5:

⇒ Public Comments

- Mr. Schubert asked for a show of hands from the audience who wished to speak, and two individuals raised their hands. He requested the comments to be limited to five minutes.
- Mary Hernandez asked if a time change in the watering schedule would be considered for next October as daylight savings time affects the hours of daylight watering. Mr. Petersen said they would look at making an alteration in next year's schedule.
- Heath Herber informed the Board that he and Mr. Petersen made a presentation to approximately 40 realtors and homebuilders at a recent HBA meeting. Subsequently, he received a call from one of the realtors who stated he was much more comfortable and aware of the District's objectives. Mr. Herber has now been invited to speak with two more realty companies. Mr. Lovato stated the Colorado Association of Realtors will be in touch with Mr. Herber in a few weeks to consider an additional presentation

There were no further comments or questions by the public.

ITEM 6:

⇒ Treasurer's Report

A financial packet was provided for the Board's review (see attached). Mr. Lovato commented there appeared to be a large surplus of funds available, and Mr. Petersen stated those funds were allocated for the wastewater treatment facility. Mr. Petersen was asked how many tap fees were sold for the year of 2007, and he responded approximately 175-180 had been sold. There was no further discussion.

ITEM 7:

⇒ Legal Report – Mr. Jim Felt

- Mr. Felt provided to the Board the status of the application for quantification of the Denver Basin ground water. He provided a brief history of the leases, which were originated in the late 1950's, that cover approximately 5,000 acres in the northern region of the Upper Black Squirrel Basin; application to quantify the rights of the Denver Basin waters, that lie beneath these leases, was originally filed back in November of 2005. The State Engineer's office generated a mailing to inform property owners within these lease areas of the application, this resulted in approximately 400 objections, with approximately 57 of those correctly filed. It was determined most of the public outcry was from current homeowners not realizing the water rights were not passed to them from the original owners or from individuals who do not have standing to object, as their property is not included in the lease areas. Research shows these leases were properly recorded and valid and allows the District to claim the appropriate amount of waters under the land. Ms. Hernandez asked why the District is short on resources when it had, all this time, the rights to this water. Mr. Petersen stated the District initiated the quantification process in 2004, and because wells would have to be drilled deep into the Basin, the cost would be extensive and the District would only do this on a much needed basis. It is anticipated a well will not be drilled in the Denver Basin for at least three to four years.
- Mr. Felt informed the Board that the District is now under contract for two additional water resources: The Albrecht Well, which is historically an agricultural well at the northern end of the basin, and the Gunzelman (Poleson) Well located north of Ellicott. A consumptive use finding has already been undertaken revealing the Gunzelman well can pump 72 acre feet per year.
- Mr. Felt informed the Board the Replacement Plan will be filed the first of November. Mr. Anderson wanted to know what the percentage of recovery rate might possibly be and was told optimistically 85-90% could be recovered.

ITEM 8:

⇒ Engineering Report – Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). HD Supply Waterworks, Ltd., has completed their contract and has submitted their Final Pay Request No. 6 of \$94,926.07. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE FINAL PAY REQUEST #6 TO HD SUPPLY WATERWORKS, LTD., IN THE AMOUNT OF \$94,926.07. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- GMS has prepared the Certificate of Substantial Completion on the project and shows all work being completed as of September 5, 2007, which commences the beginning of the warranty period. No Board action was required to approve the Certificate of Substantial Completion.
- The Final Pay Application No. 7 on Pate Construction's contract for the 24"/20" main installations has been compiled and includes an approved Change Order. The retainage on the final Pay Application has been reduced to zero. Advertising has been undertaken indicating the final payment will be made on or after October 9, 2007. The final amount due Pate Construction is \$44,387.50 and GMS recommends approval of the application in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE FINAL PAY APPLICATION #7 TO PATE CONSTRUCTION IN THE AMOUNT OF \$44,387.50. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- The actual cost of the 24"/20" line work including both material and construction totaled \$4,504,326. The final project cost for these two components totaled \$2,466,767.96, which resulted in a savings of \$2,037,558.04 from the budgeted amounts. A Certificate of Substantial Completion has been prepared showing all work completed as of September 5, 2007, which establishes the beginning of a two-year warranty period. No Board action was required to approve the Certificate of Substantial Completion.
- Change Order No. 1 on Velocity Constructors has been prepared and reflects an increase because the on-site material generated within the over lot was not sufficient to offset the magnitude of over excavation. These activities resulted in an increase in Change Order No. 1 of \$270,889.10. GMS recommends approval of Change Order No. 1 in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE CHANGE ORDER NO. 1 TO PATE CONSTRUCTION IN THE AMOUNT OF \$270,889.10. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Velocity Constructors' Pay Request No. 6 has been received and incorporates the additional work contained in Change Order No. 1. With retainage at 5%, the net amount due the Contractor is \$477,893.07. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE PAY REQUEST #6 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$477,893.07. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Within the 30-day extension, the Contractor is on schedule with 71% of the contract time used and amount completed standing at 72%. The working budget for the recharge facility was \$2,796,226.00. Defined costs to date including the approved Change Orders total \$2,477,015.47, and that amount reflects a working contingency on the project of \$319,210.53.
- Carrigan Excavating's final Pay Request No. 4 has been received and shows the work completed per the adjusted contract amount. Retainage has been reduced zero. Advertising for final payment will be made on or after October 9, 2007. The final amount due the Contractor is \$20,008.39. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE FINAL PAY REQUEST #4 TO CARRIGAN EXCAVATING IN THE AMOUNT OF \$20,008.39. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- A Certificate of Substantial Completion has been prepared and shows work completed as of August 31, 2007. No Board action was required to approve the Certificate of Substantial Completion.

- Initial work on the installation project of the Golf Course Well has commenced, and the date established for the completion of all work is December 25, 2007.

At this time, Mr. Schubert asked for a short break. The meeting recessed at 6:30 p.m.

The regular meeting resumed at 6:44 p.m.

ITEM 9:

⇒ Manager's Report – Kip Petersen

- An informal "Meet the Board and Staff" meeting is scheduled for October 20, 2007, from 9:00 a.m. to Noon. This was arranged so the District's customers and interested citizens can ask questions and discuss concerns without a formal agenda in place.
- Mr. Petersen, Mr. Lovato, Mr. Schubert, as well as Mr. Culichia attended a recent Groundwater Storage Conference held in Colorado Springs. It was a very informative conference which addressed the use of aquifers as storage areas in lieu of above-ground reservoirs.
- Mr. Petersen and Mr. Sintas attended the recent Special District Association's Conference.
- On November 17, 2007, a public tour of the District is arranged for the first 50 citizens who confirm attendance. There will be a mailing announcing this tour.
- Mr. Petersen presented to the Board the 2008 Preliminary Budget (see attached). An increase in the fourth tier of water rates, from the current \$3.31 per unit to \$4.31 per unit is proposed along with an increase in the monthly streetlight fee from \$1.00 to \$.108 per month. At the November 13th Board Meeting, a Budget Hearing will be held regarding the budget at which time staff will go into substantial detail about each fund and line item.

ITEM 10:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands (see attached). Demands for September this year were 4.08 mgd

compared to the same time last year of 2.84 mgd. This was also the second highest month for the year, with July, 2007, being the highest.

- Pikes Peak Wells' remaining capacity is 16% (139 AF) for the year. The Tipton well has produced 100 acre feet with 225 acre feet possible which equates to 35 days' remaining for pumping. The Guthrie Well has produced 148 acre feet with 200 acre feet possible. This water must be used by November 1st and should be exhausted within 14 days.
- Water violations remain low compared to earlier in the summer. There were 134 sod permits sold from August 31, 2007, to September 28.
- Mr. Sintas provided the attached copy of the revised Water Conservation Plan indicating 1500 square feet of sod be allowed per property as discussed in the last month's Meeting. Commencing November 1st, the District will begin its non-irrigation season for the year. Watering is allowed the first weekend of each month commencing November 3rd and 4th.
- Ms. Hernandez requested the District consider a middle-of-the-month watering day for the once-a-month watering days to allow for a small elapse of time, as the current schedule takes place immediately after October 31st for November 3rd and 4th.

ITEM 11:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson provided the attached update on September, 2007, activities, stating rounds of golf were up to 4% compared to the previous year. Punch cards sales were up 52% in September. Clearance sales are underway in hopes of reducing golf shop inventory and merchandise. Grill sales were 3% ahead of last year.
- On September 25, 2007, the Golf Course hosted the 2nd annual Mitchell High School full-field high junior varsity golf tournament. Eighteen area high school teams participated.
- A managerial change had been made within the Grill on the Green. Effective October 8th, Jackie Hunnam and Ron Wade began managing the Grill.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the September maintenance of the Golf Course (see attached). All greens have been aerified and fertilized, and all trees have been fertilized. Watering has been reduced because of the weather changes. Starting in October,

course maintenance routines will be reduced and winter maintenance will be scheduled. Equipment will be cleaned, repaired and painted as needed. Chairman Schubert suggested that we purchase fertilizer in advance to avoid future price increases.

ITEM 12:

⇒ Old Business

- There was no old business to report.

ITEM 13:

⇒ New Business

- New Business was asked to be moved for discussion after the Executive Session.

ITEM 14:

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

*****MOTION*****

MR. HACKER MADE A MOTION TO ENTER INTO AN EXECUTIVE SESSION CITING 24-6-402(4)(b) AND (4)(f), LEGAL CONSULTATION AND PERSONNEL DISCUSSION. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Executive Session was entered into at 7:28 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 (5-0).

The Regular Session began at 9:21 P.M.

⇒ New Business:

A brief review of the water and sewer service commitment to the Morley-Bentley Investments, LLC took place (see attached). The Board was asked to allow Mr. Petersen to sign the commitment so that it could be sent to the County.

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

MR. HACKER MADE A MOTION TO AUTHORIZE MR. PETERSEN THE SIGNING OF THE MORELY-BENTLY INVESTMENTS WATER AND SEWER SERVICE COMMITMENT. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. 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 9:24 p.m.

Gayle Jones, Treasurer

Board Members

Term Expires

Ted Schubert, President

May, 2010

Andy Anderson, Vice President

May, 2010

Gayle Jones, Secretary

May, 2010

Dave Hacker, Director

May, 2008

Robert Lovato, Director

May, 2008