

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

December 11, 2007

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, December 11, 2007, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Ted Schubert	Andy Anderson
Gayle Jones	Dave Hacker

OTHERS PRESENT

Kip Petersen	Ed Meyer
Dian Hardekopf	Len Meyer
Art Sintas	Griff Rainford
Jim Culichia	Sara Howard

OTHER GUESTS SIGNING ATTENDANCE LOG

Steve Hasbrouck	Bill Beahan
Scott Whatcott	Mary Hernandez
Jim and Judy Burnside	Chloe Olson
Jan Olson	

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. Mr. Petersen advised the Board Mr. Lovato had an unexpected commitment and was unable to attend the evening's meeting, and had asked that the Board excuse him.

*****MOTION*****

MS. JONES MADE A MOTION TO EXCUSE MR. LOVATO FROM THE EVENING'S MEETING. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

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 DECEMBER 11, 2007. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

ITEM 4:

The Minutes of the Regular Meeting of November 13, 2007, were reviewed. No changes were noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE REGULAR MEETING OF NOVEMBER 13, 2007. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

ITEM 5:

⇒ Public Comments

Mr. Schubert asked for a show of hands from the audience who wished to speak, and two in attendance raised their hands. Mr. Schubert asked for the comments to remain brief.

- Mr. Whatcott advised the Board that on November 13, 2007, a Restraining Order had been lodged against Mr. Petersen through the El Paso County District Court. On November 27, 2007, the Restraining Order became permanent. Mr. Whatcott stated that should Mr. Petersen or anyone under the direction of Mr. Petersen violate the Restraining Order and come within 100 feet of his personal property, Mr. Whatcott adamantly affirmed he would take the necessary legal action to protect his interests. In his departure from the room, Mr. Hacker asked what the Restraining Order entailed, and Mr. Whatcott responded he was not present at the meeting to answer any questions. As he left he handed Mr. Culichia a copy of the Restraining Order.

Mr. Petersen advised the Board he was not aware of the Restraining Order filed against him and, more importantly, was never personally served with any such documents. Both Mr.

Culichia and Mr. Petersen confirmed that this was the first time anyone was aware of such a charge.

- Mr. Beahan wanted to wish the Board and Staff a Merry Christmas and a Happy New Year.

ITEM 6:

⇒ Legal Report – Mr. Jim Culichia

- Subsequent to Mr. Whatcott's public statement, Mr. Culichia provided a brief history of the developments leading up to the lodging of the purported Restraining Order. He stated he would peruse the documents and apprise the Board and Staff of his findings. He stated that they would have another attorney handle the charges.
- In regards to the Denver Basin ground water lease case set for hearing, Mr. Culichia advised the Board that all objectors had filed their disclosures by November 21, 2007. A few weeks ago, the District's attorneys filed a motion to limit the participation of individuals claiming to be parties of injury. December 21, 2007, is the deadline to file all motions pertaining to the case.
- The District is very close to the final application for the replacement plan. The District had some additional modeling done to answer and explain some of the States questions and concerns and also to show placement of future wells.
- The Gunzelman (Poleson) Well application has been filed with the state to move the well for water exportation. The Upper Black Squirrel Water Management District has stated they will never permit the exportation of any more water from the basin. Mr. Culichia stated legal action might be needed to facilitate the exportation of this water.

ITEM 7:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). ITT/Sanitaire's first pay request in the amount of \$85,050 has been received. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 1 TO ITT/SANITAIRE IN THE AMOUNT OF \$85,050. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Velocity Constructors' Pay Request No. 8 has been received and is effective through November 26, 2007. Anticipated completion date is set for February 11, 2008. With retainage at 5%, the net amount due the contractor is \$149,371.53. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 8 TO VELOCITY CONSTRUCTORS' IN THE AMOUNT OF \$149,371.53. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Hacker asked if there would be fencing around the entire property and if any xeriscaping would be performed. Mr. Meyer stated fencing around the entire premises is a security matter, and that the facility will be fenced for security but that the entire property will not. Only seeding will be initiated, but deferred beyond the scheduled completion date, to allow for acceptable growing conditions.
- The WWTP Project will be at a point where it can be submitted to the Health Department in January, 2008. The contract of the SCADA system associated with the wastewater treatment facility and the recharge facility will be undertaken between Timber Line Electric representatives and District staff with input from GMS, Inc.
- The skid-mounted pumping unit for the Golf Course Irrigation Well Project was delivered and installed November 13, 2007. Arapahoe Pumping Sales, Inc. has submitted their first pay request and shows 95% completion. With retainage at 5%, the net amount due the contractor is \$62,632.15. GMS recommends approve of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 1 TO ARAPAHOE PUMPING SALES, INC., IN THE AMOUNT OF \$62,632.15, SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION.

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

- Both construction contracts on the Golf Course project will be fully completed within December even though there is a delay with the approval of the augmentation plan associated with utilizing the Sand Creek Well until approximately March, 2008.
- Regional Building's permit for the electrical work on the Golf Course project has been secured and will enable Hume Constructors to complete their project within December. They have submitted their second pay request. Taking into account retainage at 5%, the net amount due the contractor is \$21,827.25. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 2 TO HUME CONSTRUCTORS IN THE AMOUNT OF \$21,827.25. SECONDED BY MR. ANDERSON. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- The District has received a letter dated November 19, 2007, from the Colorado Department of Public Health formally transmitting a Notice of Violation/Cease and Desist Order in regard to the District's existing wastewater treatment facility. This Order stems from reported noncompliance of the plant's effluent quality within the period from April-August, 2007. The Order requires the District to evaluate its existing aeration system and overall process design of the existing plant to define any shortcomings that may result in noncompliance with the discharge permit.

The above action initiated an investigation of the blower providing air to Cell No 1, and the blower was found to be inefficiently operating at approximately 60% of its capacity. Subsequently, the District's formal response has been prepared and submitted to the Health Department. The District will be required to submit, beginning in January, 2008, quarterly reports to the Department of Health acknowledging any deficiencies and the corrective action to be undertaken to address them. Because of its noncompliance, the District most likely will incur a fine not yet determined but will be assessed by formula from the Department of Public Health.

At this time, Mr. Schubert asked for a short break. The meeting recessed at 6:18 p.m.

The regular meeting resumed at 6:28 p.m.

ITEM 8:⇒ Manager's Report – Kip Petersen

- Mr. Petersen provided an update on the monthly activities which transpired within the last month which included the upcoming review of the Final Budget, an offer of employment to the new Class A Operator for the District, and the postponement of any development on the Whatcott property situation. Mr. Petersen will be on vacation the week of December 17-21, 2007. One of his priorities upon his return will be the study of comparable salaries of private companies and other utility companies geographically located within the Pikes Peak Region.

ITEM 9:⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands (see attached). Demands for November this year were 1.74 mgd compared to the same time last year of 1.59 mgd. The remaining capacity for the Pikes Peak Wells is 16 acre feet. Both Wells 10 and 11 are back in operation and will run through the remainder of the week. The Tipton Well is complete for the year, and the Sweetwater Wells will supply the District until next spring, 2008.
- Three water leaks have kept the District busy with repairs the last month, those being at or near 865 Hathaway Dr., 1144 Nokomis Dr., and 1170 Nez Perce Dr.

ITEM 10:⇒ Golf Course, Pro Shop – Kip Petersen

- Because of Mr. Laxson's excused absence, Mr. Petersen provided the attached update on November, 2007, activities. The rounds played in November were 165 less than November, 2006, but the total income for the Golf Course is 14% ahead of last November. Grill sales were ahead 27% and merchandise sales were ahead 26% from last year.
- The biggest change in Golf Course fees for 2008 will be the green fees. The Premier Player Card will replace the 30-round punch card for the Regulation 9. This card will allow a player to pay \$225 up front and then receive a discounted green fee of \$9 per nine holes the rest of the year, every day of the week, for the entire year from issue date. The Golf Course will also have a restricted card which will allow players to pay \$150 up front and receive the discounted

rate of \$9 for nine holes, Monday through Thursday only. The weekend Regulation 9 hole green fee will be increased from \$13.50 to \$14. The weekend will be defined as Friday through Sunday from May 1 through October 31, 2008. The five-round punch card will only be offered for the Regulation 9. The five round cards will have a rate increase of \$2.50 per punch card.

- Par 3 prices will be raised 50 cents per green fee. The Senior/Junior fee will be \$7 for nine holes and the Regular Green fee will be \$9 for nine holes. The Golf Course will still offer both five-round and 30-round punch cards for the Par 3 at a slight increase over 2007. The five-round cards will increase by \$2 per card, and the 30-round cards will increase by \$10. The Grill on the Green will reflect menu price increases anywhere from .25 cents to .75 cents per item.
- Range ball prices will be raised \$1 per bucket. The range card will stay at \$50. The primary purpose of the increases for 2008 is to exceed the Golf Course's goals in the services they provide while maintaining high expectations in both the maintenance and betterment of the facility.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the November maintenance of the Golf Course (see attached). Fungicide for snow mold prevention has been applied to all greens, the irrigation system has been decommissioned, leaf removal has been performed, and Mr. Rainford and his crew oversaw the pump placement in the pump house and the cleanup of the trench line. Winter cups and tees have been placed to protect the course during the non-growing season.

ITEM 11:

⇒ Budget Hearing – Adoption of 2008 Budget

*****MOTION*****

MS. JONES MADE A MOTION TO OPEN ITEM NO. 11, BUDGET HEARING, TO A PUBLIC HEARING. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Petersen informed the Board the Budget Hearing would be two-fold. First, there would be a hearing on the supplemental budget; and secondly, there would be a final report on the 2008 Budget. Ms. Hardekopf addressed the Board explaining the Resolution for Supplemental Budget and Appropriation. The supplemental budget is needed because of the unanticipated costs to establish the irrigation wells for the course.
- Mr. Petersen addressed the Board with an overview of changes from the drafted Budget which were implemented into the final 2008 Budget, identifying those reflected changes page by page in the 2008 Budget (see attached). Mr. Anderson asked if the salary increases were shown in the payroll budget items. Mr. Petersen explained that from discussions during the November budget hearing that the line items remained with the 3.5% increases. Mr. Anderson and Ms. Jones restated the need for researching and completing a salary survey. There was no further discussion or public comment.

*****MOTION*****

MS. JONES MADE A MOTION TO CLOSE THE PUBLIC HEARING AND RETURN TO THE REGULAR MEETING. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Petersen read 07-03 Resolution for Supplemental Budget and Appropriation (see attached) and requested the Board to approve the same.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE AND ADOPT 07-03 RESOLUTION FOR SUPPLEMENTAL BUDGET AND APPROPRIATION FOR 2007 BUDGET. SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Petersen read 07-04 Cherokee Metropolitan District Appropriation Resolution appropriating \$17,185,048 as follows: The General Fund \$88,700; the Water and Wastewater Enterprise Funds \$15,969,466; the Special Revenue Fund \$180,350, and the Golf Course Enterprise Fund \$946,532 from the income and other revenue as estimated in the Budget. This Resolution shall take effect on the 1st day of January, 2008.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE AND ADOPT 07-04 CHEROKEE METROPOLITAN DISTRICT APPROPRIATION RESOLUTION SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Petersen extended his appreciation to Staff for their help and hard work in developing the 2008 Budget as a team. The Board also thanked Mr. Petersen for excellent work.

ITEM 12: Old Business

⇒ Old Business

- There was no old business to report.

ITEM 13: New Business

- Mr. Petersen addressed the Board and read 07-05 Certificate of Appointment and Oath of Designated Election Official hereby appointing Ms. Dian Hardekopf as Designated Election Official for the purposes of planning and implementing the Special District's regular biennial election to be held on May 6, 2008.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE AND ADOPT 07-05 CERTIFICATE OF APPOINTMENT AND OATH OF DESIGNATED ELECTION OFFICIAL APPOINTING MS. DIAN HARDEKOPF AS DESIGNATED ELECTION OFFICAL FOR THE MAY 6, 2008 ELECTION. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Ms. Hardekopf gracefully accepted the appointment upon Mr. Petersen's official service of Oath.
- Mr. Hacker advised the Board and staff he will be submitting his name for re-election as a Director of the Board.
- Mr. Petersen provided to the Board and asked them to approve the proposed Board Meeting dates for 2008 (see attached).

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE 2008 BOARD MEETING DATES AS LISTED. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

ITEM 14:

⇒ 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 MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

Executive Session was entered into at 7:48 p.m.

At this time, Mr. Schubert asked for a short break. The meeting recessed at 7:49 p.m.

The Executive Session resumed at 7:55 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 MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

The Regular Session began at 8:39 p.m.

Mr. Petersen stated that no action was taken in the executive session and asked that the Board make a motion to allow Mr. Culichia to ask for a 60 day extension on the Goss water contract.

*****MOTION*****

MS. JONES MADE A MOTION TO ALLOW MR. CULICHIA TO ASK FOR THE 60 DAY EXTENSION ON THE GOSS CONTRACT. SECONDED BY MR. ANDERSON. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

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 8:43 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