

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

January 9, 2007

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, January 9, 2007, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Ted Schubert	Andy Anderson
Dave Hacker	Gayle Jones
Robert Lovato	

OTHERS PRESENT

Art Sintas	Naum Nasif, Richmond American Homes
Dian Hardekopf	Keith and Tina Hudson, Residents
Jim Felt	Karl Raymond, Resident
Ed Meyer	Mary Hernandez, Resident
Sandy DeCarolis	Jan Cederbey, Resident
Brian Beaudette	Chloe (Jane) Olson, Resident
Sara Howard	Robert Helton, Resident
Griff Rainford	
Bill Beahan	
Jon Maroon	

ITEM 1:

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

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

ITEMS 2 AND 3:

Mr. Schubert asked the members of the Board if there were any changes or amendments that needed to be made to the Meeting's Agenda for January 9, 2007. There were no suggestions or changes recommended.

*****MOTION*****

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

ITEM 4:

The Minutes of the Regular Meeting of December 12, 2006, were reviewed. No changes were noted.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE REGULAR MEETING OF DECEMBER 12, 2006. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 5:

⇒ Public Comments

- Public comments for items not on the agenda were invited. Mr. Schubert requested a show of hands and two interested citizens were asked to state their names, sign in, and address the Board for a maximum time of two minutes.
- Ms. Mary Hernandez questioned the process of the Board of Directors approving the Manager's salary increase during Executive Session and announcing the same prior to the public being invited back into the Regular Board Meeting. Mr. Beahan interjected his personal opinion of the definition of "Executive Session" and what it meant when he was a Member of the Board. Mr. Schubert, along with attorney Mr. Felt, apologized to Ms. Hernandez and those in attendance, stating the Board had made an error in getting the public back into the board room before the motion was made, however, Mr. Schubert did announce to the public, the motion that was made and approved on Mr. Petersen's salary increase. Mr. Schubert at this time assured the audience the Board would make a sincere effort to not let this happen again in the future.

Ms. Jane Olson asked the Board if they would be reporting on the contempt hearing. Mr. Felt stated that at this time, there is no information to give except that the hearing had been postponed and no date has been set for reschedule.

There were no further comments or questions by the public.

ITEM 6:

⇒ Treasurer's Report

- Because the Treasurer's Report was going to be mailed to the Board of Directors, there was no report at this time.

ITEM 7:

⇒ Legal Report – Mr. Jim Felt
Reminder of 2nd Closing for the Tipton Water

- Mr. Felt reported that in December, 2006, the District closed on a contract with Case International by purchasing 72.33 acre feet of water from the Tipton Wells, located in the northwest quadrant of the Upper Black Squirrel Management District. The remaining 148.67 acre feet of water will be closed on January 25, 2007, and Mr. Felt asked that the Board authorize Mr. Petersen to sign the necessary documents at closing.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE AND AUTHORIZE MR. PETERSEN TO SIGN THE NECESSARY CONTRACTS ON JANUARY 25, 2007, TO PURCHASE THE SECOND PORTION OF THE TIPTON WATER FOR THE CHEROKEE METROPOLITAN DISTRICT. SECONDED BY MR. HACKER. NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Case has requested retainage of four acre feet from the total 425 acre feet available for purchase, a part of which would be used in a future commercial development he is involved in.
- A question from the audience was raised as to how the developers are reimbursed for the water they buy for the District. Mr. Felt explained that a water development fee of \$6300 is charged and added into the purchase of a single family home tap fee. This \$6300 is then reimbursed to the developer who purchased the water.
- During the first week of January, 2007, a hydrological engineer was hired to determine the existence of non-potable water at the Golf Course. Initial drilling revealed a possible water supply for the entire Golf Course. Before this water can be used, however, Mr. Felt stated there needs to be in place an augmentation plan which, simply defined, means that to pull water away from one source (using the Sand Creek wells to pump non-potable water to the Golf Course), another source of water needs to be returned back into

Sand Creek. Mr. Felt did not know if this augmentation plan could be in place by May, 2007.

Approval of IGA for Pikes Peak Water Authority

- Mr. Felt reported seven entities, owning and operating water collection treatment and/or distribution systems within the County of El Paso, are working on a Pikes Peak Regional Water Authority in establishing a separate governmental entity in developing water resources, systems, and facilities.

The purpose of this Authority is to effect the development and expansion of renewable and non-renewable water resources, systems, and facilities in whole or in part for the benefit of the members and their inhabitants, to identify and implement uniform operating procedures, conservation programs and projects, and to develop and implement financing options for development and expansion of water supply to all members, on a cooperative and mutually beneficial basis.

Mr. Felt explained that this District would have no taxing authority, so the funding will strictly come from the members. Cherokee's contribution to fund the budget for the first year, using a formula based on how many customers the District serves, would be \$20,000. The agency's Board of Directors would be comprised of the General Manager or a Board member from each of the seven districts. Mr. Lovato stated that Mr. Petersen should be the representative for this District. Mr. Felt also noted that any District could unsubscribe upon a 30-day written notice, and the specific District would be reimbursed of any unused funds. Mr. Felt recommended to the Board to enter into this Authority and asked that Mr. Schubert authorize and sign the Intergovernmental Agreement Establishing the Pikes Peak Regional Water Authority (see attached).

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE, AND HAVE MR. SCHUBERT AUTHORIZE AND SIGN, THE INTERGOVERNMENTAL AGREEMENT ESTABLISHING THE PIKES PEAK REGIONAL WATER AUTHORITY. SECONDED BY MR. HACKER. NO FURTHER DISCUSSION ENTAILED. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Mr. Schubert requested a five to ten minute break at 6:25 p.m.
The Regular Meeting reconvened at 6:34 p.m.

ITEM 8:

⇒ Engineer Report – Ed Meyer
WWTF Bid Results on Material and Equipment Acquisition

- Mr. Meyer passed out an Engineering Report highlighting Wastewater Plant Project related issues (see attached). Bonie Pate, CDPHE, has published the notice of the Finding of No Significant Impact on the project which closed out the environmental reviews associated with the project. Dave Knope, also of CDPHE, has approved the process design on the wastewater treatment facility which was submitted to him by GMS.
- The existing Colorado Discharge Permit System permit has been revoked to allow for a new permit to be set in place. The new permit will establish a completion date of the new wastewater treatment plant project for April, 2010, this will allow for adequate contingency within the project's schedule.
- The pipeline material and SBR Equipment acquisition specifications have been prepared and was advertised on December 11, 18, and 26. The bid opening was conducted on January 5, 2007. All acquisition specifications were submitted to the CDPHE and have received a verbal approval.
- The opening bid quotations received have been extremely competitive; however, only one material supplier responded to the request for bid, which was HD (Home Depot) Supply Waterworks, Ltd. Mr. Meyer, representing GMS, Inc. recommended the award of Schedule 1 Pipeline Material Contract go to HD Supply Water Works in the amount of \$1,789,572.96.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE AND AWARD THE SCHEDULE 1 PIPELINE MATERIAL PROJECT BID TO HD SUPPLY WATERWORKS, LTD., IN THE AMOUNT OF \$1,789,572.96. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Anderson asked Mr. Meyer if the above bid allowed for the fluctuation of the cost of materials once the bid was awarded, Mr. Meyer stated that the bid amount was a fixed amount and they would hold until February 5, 2007.
- Because of the large amount of concrete to be used in a project such as this one, Mr. Hacker asked Mr. Meyer if a purchase price could be established beforehand. Mr. Meyer stated the timeframe

for the purchase of concrete is approximately ten months away, and he would look in to this possibility.

- The second component of the Wastewater System Material and Equipment Acquisition bid consisted of Schedule 2: Sequencing Batch Reactor (SBR) Equipment. Two bids received on the Schedule 2 work were submitted by ITT Sanitaire using ABJ equipment and Siemens Water Technology using Jet Tech equipment. GMS evaluated the two bids and recommends award of the Schedule 2 project to ITT Sanitaire in the amount of \$1,260,000.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE AND AWARD THE SCHEDULE 2 SEQUENCING BATCH REACTOR (SBR) EQUIPMENT PROJECT BID TO ITT SANITAIRE IN THE AMOUNT OF \$1,260,000. SECONDED BY MR. HACKER. NO FURTHER DISCUSSION ENSUED. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Design is nearing completion on the next three projects and bids will probably need to be approved at a special meeting in February. The first project will be the extension of the 24-inch piping from the SAFB site to the wastewater treatment plant site. The second is the 20-inch diameter piping extending from the WWTF to the recharge basins. The third project involves the installation of the recharge basins and all associated yard piping.

ITEM 9:

⇒ Water/Wastewater Report – Art Sintas Pretreatment Ordinance Change

- Mr. Sintas addressed the Board to Proposed Changes to Cherokee Ordinance 83-0100 (see attached). He stated since the initial ordinance pretreatment section was approved in the 1997 amendment, there have been many changes to the pretreatment program locally and nationally. Amendments have been needed in the ordinance to reflect these changes. The proposed changes to the ordinance were a result of requirements stated in the EPA audit report. Mr. Sintas requested the Board for a motion to approve the change as an amendment and to sign the Introduction, as written: "The Board of Directors finds, determines and declares that is necessary and conducive to the protection of the public health, safety, welfare and convenience to adopt and have full force and effect this Ordinance and, further, to impose and collect user charges for the use of the water supply and wastewater system of the District. In the event that this Ordinance is inconsistent with

any previous Ordinance, rules or regulations for the Cherokee Metropolitan District, this Ordinance shall control. Amended January 9, 2007."

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE PROPOSED CHANGE TO CHEROKEE ORDINANCE 83-0100, AS READ BY MR. SINTAS. SECONDED BY MR. HACKER. NO FURTHER DISCUSSION ENTAILED. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Recommendations for 2007 Water Restrictions

- Mr. Sintas passed out a memo regarding Water Restrictions for 2007 and Future Years (see attached). He and Mr. Brian Beaudette met with the Water Conservation Advisory Committee on January 8, 2007, but were unable to reach an amicable agreement regarding water restrictions for the upcoming watering season. With that in mind, Mr. Sintas asked the Board to review and approve Stage 2 of the Water Restrictions to be effective commencing April 1, 2007. He recommended that during the months of November through March, once a month watering should be allowed, along with the opportunity to wash vehicles.
- Mr. Lovato, also Chairman of the Water Conservation Advisory Committee, said the Committee had recommended Stage 1 (watering three times per week), and if needed, to be moved to Stage 2 (water two times per week). Mr. Sintas stated however, that Staff recommended initially Stage 2 and moving, if the opportunity provided itself, to Stage 1. Mr. Sintas and Staff believe that it is easier to relax the restrictions rather than make them more restrictive.
- Mr. Felt passed out an analysis of water demands for imposition of water restrictions prepared by Mr. Culichia. Based on the demand and use of water in 2006, it was Mr. Felt's belief that Stage 2 should initially be implemented in the District's proposed watering schedule.
- Ms. Jones made a motion for the Board to adopt the Staff's recommendation of Stage 2 for the beginning of 2007 water restrictions. This also would include car washing to begin immediately. Mr. Anderson seconded the motion; however, upon further discussion and review, Ms. Jones withdrew her first motion. Ms. Jones further made a new motion to adopt as a Board the staff recommendations for all stages of the water restrictions as set for in the outline presented by Mr. Sintas. Mr. Lovato requested

clarity in this motion, adding that the motion would include washing of vehicles with a positive shut-off valve, not to allow sod permits for Stages 3 and 4, providing a drip system for trees, shrubs, garden beds and flowers, and sod permits would need to be purchased under Stage 1 and Stage 2. Mr. Lovato requested that staff should use all avenues and means to communicate with, and to educate, the public concerning these new water restriction guidelines.

*****MOTION*****

MS. JONES MADE A MOTION TO ADOPT AS A BOARD THE STAFF RECOMMENDATIONS FOR THE WATER RESTRICTIONS AS SET FOR IN THE PROPOSED STAGES 1-4. SECONDED BY MR. ANDERSON. NO FURTHER DISCUSSION ENTAILED. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Lovato reiterated that the District should require some form of commitment from homeowners associations developing in the District that would stand behind the District's guidelines and encourage xeriscaping. He also mentioned the District should look into the possibility of using an award system for customers who xeriscape their lawns.

*****MOTION*****

MR. HACKER MADE A MOTION FOR THE DISTRICT TO INCORPORATE STAGE 2 OF THE PROPOSED WATER RESTRICTIONS FOR 2007 BEGINNING FEBRUARY 1ST, 2007. SECONDED BY MS. JONES. NO FURTHER DISCUSSION ENTAILED. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 10:

⇒ Golf Course
Pro-Shop – Todd Laxson
Maintenance – Griff Rainford

- Memos from Mr. Laxson and Mr. Rainford regarding the Pro-Shop and Maintenance for the Golf Course were reviewed. There were no questions or comments at this time.

ITEM 14:

⇒ Public Comments

- To give an opportunity for those in attendance to not have to wait for the Board to reconvene to the Regular Meeting after coming

out of Executive Session, public comments were encouraged at this time.

- Mr. Nasif, Richmond Homes, asked if the watering schedule enforced in June, 2006, was comparable to that of Stage 2 or Stage 1. It was explained that the 2006 restrictions were closer to Stage 2 with exception of the watering time limit. He also wanted to know if the District was going to be able to tap into the 840 acre feet of water in the Pikes Peak Wells. Mr. Felt told him that Cherokee would be using those wells as soon as needed however we are holding off as much as possible to keep them for the peak watering times.
- Mr. Raymond wanted to know what it would take for the District to move from Stage 2. Mr. Sintas stated he will be monitoring meter reads and tank levels daily to determine water usage to see if a transition can be made in the future from one stage to another.

ITEM 11:

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

*****MOTION*****

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

Executive Session was entered into at 8:19 p.m.

*****MOTION*****

MR. LOVATO MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RETURN TO THE OPEN SESSION OF THE REGULAR MEETING. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

The regular session reconvened at 8:42 p.m.

ITEM 12:

⇒ Old Business

There was no old business to discuss at this time

ITEM 13:

⇒ New Business

Mr. Sintas read and asked for signatures and approval of Resolution #07-01 for the posting of Meeting Agendas for the 2007 year.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE RESOLUTION #07-01 FOR THE POSTING OF THE CHEROKEE METROPOLITAN DISTRICT'S MEETING AGENDA AND TO HAVE ALL BOARD MEMBERS SIGN. SECONDED BY MR. HACKER. 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 8:44 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