

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

January 13, 2009

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, January 13, 2009, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Steve Hasbrouck	Dave Hacker
Gayle Jones	Sean Byers
Robert Lovato	

OTHERS PRESENT

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

OTHER GUESTS SIGNING ATTENDANCE LOG

David and Linda Mattes	Lynne Bliss
Ken and Rita Martinez	Ruth Ann Hacker
Mary Hernandez	Ron Pace
Walt Bell	Michael Rasdall
Jan Olson	Chloe Olson
Jon Maroon	

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:30 p.m. Ms. Hardekopf called roll call of the Board of Directors, all Directors were present with the exception of Mr. Lovato who would be arriving a few minutes late.

ITEM 2 and 3:

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

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF JANUARY 13, 2009. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (2-0).

ITEM 4:

⇒ Appointment of Board Officers

Mr. Hasbrouck requested Ms. Hardekopf to conduct the Oaths of Office for the two newly elected Board Members. Ms. Hardekopf asked Mr. Hacker and Mr. Byers to stand and raise their right hands and read together and affirm the Board of Directors' Oath of Office. Both new Directors signed their oaths.

Mr. Lovato arrived at 5:33 p.m.

ITEM 5:

⇒ Election of Officers

*****MOTION*****

MR. HACKER MADE A MOTION TO ELECT MR. HASBROUCK AS PRESIDENT OF THE BOARD OF DIRECTORS' FOR THE REMAINING TERM. SECONDED BY MS. JONES. THERE WERE NO OTHER NOMINATIONS. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

*****MOTION*****

MS. JONES MADE A MOTION TO ELECT MR. BYERS AS VICE PRESIDENT ON THE BOARD OF DIRECTORS FOR THE REMAINING TERM. MR. BYERS RESPECTFULLY DECLINED. MS. JONES MADE A MOTION TO ELECT MR. LOVATO AS VICE PRESIDENT ON THE BOARD OF DIRECTORS FOR THE REMAINING TERM. MR. LOVATO RESPECTFULLY DECLINED. MR. HASBROUCK MADE A MOTION TO ELECT MR. HACKER AS VICE PRESIDENT ON THE BOARD OF DIRECTORS FOR THE REMAINING TERM. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

*****MOTION*****

MR. BYERS MADE A MOTION TO RETAIN MS. JONES AS SECRETARY/TREASURER ON THE BOARD OF DIRECTORS FOR THE REMAINING TERM. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 6:

The Minutes of the Regular Meeting of December 9, 2008, were reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF DECEMBER 9, 2008. SECONDED BY MR. LOVATO. MR. BYERS-ABSTAIN; MR. LOVATO-YES; MR. HACKER-ABSTAIN; MS. JONES-YES, AND MR. HASBROUCK-YES. MOTION CARRIED (3-2-0).

ITEM 7:

The Minutes of the Special Meeting of January 6, 2009, were reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF JANUARY 6, 2009. SECONDED BY MS. JONES. MR. BYERS-ABSTAIN; MR. LOVATO-YES; MR. HACKER-ABSTAIN; MS. JONES-YES, AND MR. HASBROUCK-YES. (MOTION CARRIED (3-2-0).

ITEM 8:

⇒ Public Comments

Mary Hernandez wanted to welcome Counsel Jim Felt back to the meetings, as she missed his insight and presentations. Sandy DeCarolis stated the financial reports for 2008 were not yet available and would be mailed to the Board Members when completed.

There were no other public comments at this time.

ITEM 9:⇒ Legal Report – Mr. Jim Felt

- Mr. Felt updated the Board on the Replacement Plan stating the trial has been set for June 8-19, 2009. At this time the Upper Black Management District has filed a motion to dismiss.
- The Denver Basin Lease case trial is scheduled for March 2-6, 2009. Depositions before the trial have been taking place, with Mr. Booker's deposition already completed, Inezbell William's to take place January 19, and Terry Shaw's to be held January 23. It was Mr. Felt's opinion this case will most likely go to trial.
- Mr. Felt and staff will be traveling to Denver on January 14th to attend a hearing before the Ground Water Officer, involving the Springs East Airport Case. Springs East Airport is seeking a quantification determination of water as well as a use change to a Williams well #2 located north and west of Ellicott Springs to be used for a residential development. The District has a lease that covers that same ground and is contesting their requested usage of approximately 67 acre feet; the lease agreement states that a total use of 100 acre feet of water be available from Williams Well #1 and #2. Cherokee wants to make sure that the quantification total will not exceed the 100 acre feet.

ITEM 10:⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater treatment facility project and related issues (see attached). Glacier Construction's 6th pay request has been received. It reflects \$6,372,663.82 earned to date. Retainage of 10% at this time is \$637,266.38. Taking both the retainage and the prior payments into account, the net amount due the Contractor is \$629,221.11. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 6 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$629,221.11. SECONDED BY MR. BYERS. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Work is progressing on several fronts of the WWTP. Yard piping installation and wall construction for the aerobic digester basins and SBR basins 3 and 4 continues. Electrical conduit installation is continuing and the aerobic digester basins' base slabs have been installed. SBR basin 1 and 2's concrete work is completed and hydrostatic testing is being conducted. Concrete work and foundation work continues, and the SBR equipment is being delivered this month.
- The first pay request has been received from Timber Line Electric & Control Corp. on the provision of equipment related to the forthcoming SCADA system. It reflects \$1,150 earned to date. With retainage at 10%, the net amount payable to Timber Line is \$1,035. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MS. JONES MADE A MOTION TO APPROVE PAY REQUEST NO. 1 TO TIMBER LINE ELECTRIC & CONTROL CORP. IN THE AMOUNT OF \$1,035. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Meyer provided to the Board a memo outlining the allocation of costs on December's contractor draw requests. The Water Pollution Control Revolving Fund Loan Request No. 12 has been prepared, and it requests a total of \$404,739.28 to be remitted to the District to cover eligible costs for December. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #12 BACK TO THE DISTRICT IN THE AMOUNT OF \$404,739.28. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

At this time, a short break was requested so Mr. Hasbrouck could provide signatory authority on the above contracts. The meeting recessed at 6:04 p.m.

The regular meeting resumed at 6:11 p.m.

ITEM 11:⇒ Manager's Report – Kip Petersen

- Before Mr. Petersen provided his Manager's Report, he wanted to mention the unfortunate passing of Mr. Jim Burnside, who, with his wife, had been attending the District's Board Meetings over the past years. Mr. Burnside's life was taken in a head-on accident east of Colorado Springs. The District sent a letter of condolence and will be making a donation to the Boy's Ranch which Mr. Burnside was actively involved in. Mr. Hasbrouck was able to attend the funeral.
- Mr. Petersen wanted the Board to be aware a lot of his time and energy has been, and will be, spent on legal issues and hearings, and trials coming up in the next several months. He also has been working with several water providers to secure more water for the District. He will be scheduling a work session with Mr. Hacker and Mr. Byers and provide a matrix of ongoing projects and developments in the District.
- Mr. Petersen has been elected President of the El Paso County Water Authority and is up for nomination as President of the Pikes Peak Regional Water Authority. Although the regional approach may add additional duties, he feels the District's presence and his participation will be beneficial for the District.
- Mr. Petersen provided to the Board, and read, the attached Resolution No. 09-01, a Resolution for the Cherokee Metropolitan District, Designating Authorized Individuals for the Colorado Water Resource and Power Development Authority Loan Agreement, this resolution is required because of the election of two new Board Members and subsequent reappointments.

*****MOTION*****

MR. LOVATO MADE A MOTION TO ADOPT 09-01 RESOLUTION FOR THE CHEROKEE METROPOLITAN DISTRICT, DESIGNATING AUTHORIZED INDIVIDUALS FOR THE COLORADO WATER RESOURCE AND POWER DEVELOPMENT AUTHORITY LOAN AGREEMENT. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Petersen read 09-02 Cherokee Metropolitan District Agenda Posting Resolution and requested the Board to accept the same.

*****MOTION*****

MR. LOVATO MADE A MOTION TO ADOPT 09-02, CHEROKEE METROPOLITAN DISTRICT AGENDA POSTING RESOLUTION. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Lovato wanted to thank the staff for the invite to the Christmas party held in December. He really enjoyed the dinner and concurred with Mr. Petersen in thanking Ms. DeCarolis for her coordination efforts. Mr. Hacker wanted to personally thank the staff for taking him and his wife, Ruth Ann, on a tour of the WWTP the week before.

ITEM 12:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands. Water demands for December were 1.88 mgd compared to last year of 1.50 mgd. The water demands are higher this year because Woodmen Hill's has a vested interest in acquiring the entire 350 acre feet of their water rights. Although currently in the water leak season, the District is experiencing fewer water leaks this year—two compared to 14 this time last year. Mr. Lovato asked if there were going to be any changes or new developments to the water conservation plan, and Mr. Petersen stated it was dependent on snowfall accumulations and weather changes. At this current time, he does not foresee any changes from last year.
- Mr. Felt stated Mr. Sintas' report raised two issues facing the District. The Agreement with Woodmen Hills to provide 350 acre feet of water each year was from a contract entered into many years ago. However, on July 31, 2009, The District can begin to use Wells 1-8 in the Upper Black Squirrel Basin; and water from those wells can be provided to Woodmen Hills, thus relieving, and freeing up, 350 acre feet for District needs.
- The District is also negotiating with entities on the Arkansas River and is about to acquire storage in Pueblo Reservoir. Using Colorado Springs Utilities' resources to wheel the water into the District would allow additional water in the foreseeable future. Ms. Jones wanted it on the record that all Board Members will be campaigning for a three-day-a-week summer conservation plan, but the District's primary concerns come first.

ITEM 13:⇒ Golf Course, Pro Shop, and Maintenance

- Mr. Laxson provided his monthly report to the Board (see attached). The Golf Course experienced a 5% decrease in the number of rounds from 2007 to 2008; however, a 2% increase over the 2007 year end was the highest on record for the Golf Shop. The Grill ended 15% ahead of 2007, and the driving range experienced a 5% increase. In conclusion, the year-end total for 2008 was \$926,871 compared to the 2007 grand total of \$920,561.
- Mr. Laxson wanted to thank Mr. Ken Emricson for his contribution to the Golf Course when he repaired the walls of the bathrooms in the Clubhouse.
- The Golf Course has been able to take advantage of good weather since the beginning of January. A major capital expenditure for 2009 was realized when five new golf cars were purchased while trading in five of the oldest cars.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the December maintenance of the Golf Course (see attached). December began and ended with nice weather. Several trees were lost to windstorms that hit the area.
- The driving range net was repaired, and the irrigation and lake fill systems were decommissioned. The staff is continually maintaining and up keeping equipment and fixtures during the slow season. Fungicide was applied to the greens to protect them in the winter months.
- Mr. Lovato asked if the Sand Creek Wells on the Golf Course were pumping. Mr. Rainford stated they were and were pumping 120 gpm, which is approximately 180,000 gallons in a 24-hour period. Currently this is a ratio of two days pumping to one day of watering. Mr. Lovato requested this information be provided to the customers in the next upcoming Newsletter.

ITEM 14:⇒ Old Business

There was no old business to report at this time.

ITEM 15:⇒ New Business

- Mr. Petersen presented and read to the Board the amended changes in the Cherokee DOT Drug and Alcohol Testing Policy. Mr. Byers asked if there are any requirements for staff to be trained and certified in drug and alcohol detection and awareness. Mr. Petersen acknowledged that yes, and several staff members are trained in this practice.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE CHANGES IN THE CHEROKEE DOT DRUG AND ALCOHOL TESTING POLICY, AS AMENDED. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Petersen presented and read to the Board the Addendum to the Intergovernmental Agreement for the Pikes Peak Regional Water Authority to add Woodmen Hills Metropolitan District as a member. No discussion prevailed.

*****MOTION*****

MS. JONES MADE A MOTION TO ADOPT THE ADDENDUM ADDING WOODMEN HILLS METROPOLITAN DISTRICT TO THE INTERGOVERNMENTAL AGREEMENT OF THE PIKES PEAK REGIONAL WATER AUTHORITY. SECONDED BY MR. LOVATO. MR. BYERS-YES; MR. LOVATO-ABSTAIN; MR HACKER-YES; MS. JONES-YES, AND MR. HASBROUCK-YES. MOTION CARRIED (4-1-0).

- Ms. Hernandez asked if the District had a pro-active approach to prevent incidents of criminal misbehavior at its parks, based on a double homicide which occurred in one of the parks a week before. Mr. Petersen said he will be contacting the Sheriff's Office to see if they can enhance security at the parks and pavilions, and will be placing informational guidelines in the District's Newsletter. Mr. Maroon asked if the District had any legal responsibility in posting no loitering signs at the parks, and Mr. Felt said the county does not have any kind of a loitering ordinance. Ms. Hernandez recommended the article should encourage more involvement from the District's homeowners such as a "neighborhood watch environment."

ITEM 16:

⇒ 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. BYERS. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Executive Session was entered into at 7:03 p.m.

A short break was taken before Executive Session commenced.

Executive Session began at 7:08 p.m.

*****MOTION*****

MR. BYERS 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 8:50 p.m.

Mr. Petersen stated that quite a few legal updates were discussed in the executive session. Also looking at the purchase of Fountain Mutual Shares where 7 shares may be available for purchase within 30 days. Mr. Petersen and Mr. Felt recommended that the Board approve negotiating and purchase of these 7 shares.

*****MOTION*****

MR. LOVATO MADE A MOTION TO GO AHEAD WITH THE PURCHASE OF 7 SHARES OF THE FOUNTAIN MUTUAL. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 17:

⇒ Adjournment

There being no further business to come before the Board at this time, a motion was made for adjournment.

The Meeting adjourned at 8:53 p.m.

Gayle Jones, Treasurer

Board Members

Term Expires

Steve Hasbrouck, President
Dave Hacker, Vice President
Gayle Jones, Secretary
Robert Lovato, Director
Sean Byers, Director

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