

**CHEROKEE METROPOLITAN DISTRICT**  
**REGULAR MEETING OF THE BOARD OF DIRECTORS**

April 8, 2008

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, April 8, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Andy Anderson	Gayle Jones
Dave Hacker	Robert Lovato

OTHERS PRESENT

Kip Petersen	Pete Heidebrecht
Dian Hardekopf	Len Meyer
Art Sintas	Griff Rainford
Jim Felt	Bryan English
Sara Howard	Todd Laxson
Ed Meyer	

OTHER GUESTS SIGNING ATTENDANCE LOG

Bill Beahan	Chloe Olson
Mary Hernandez	Jan Olson
Jim and Judy Burnside	Sean Byers
Wade Antener	Ken Martinez
Rita Martinez	Steve Hasbrouck
Michael Rasdall	Ken Emericson
Dennis Daniels	

ITEM 1:

The meeting was called to order by Vice Chairman Andy Anderson at 5:30 p.m.

Ms. Hardekopf called the roll of the Board of Directors. All Board Members were present except for Mr. Schubert who had another commitment and Mr. Lovato who would be arriving a few minutes late.

**\*\*\*MOTION\*\*\***

**MR. HACKER MADE A MOTION TO EXCUSE MR. SCHUBERT FROM THE EVENING'S MEETING. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).**

ITEMS 2 AND 3:

Mr. Anderson 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 APRIL 8, 2008. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).**

ITEM 4:

The Minutes of the Regular Meeting of March 11, 2008, were reviewed. There were no changes to be made.

**\*\*\*MOTION\*\*\***

**MR. HACKER MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF MARCH 11, 2008. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (3-0).**

ITEM 5:

⇒ Public Comments

Mr. Anderson asked if anyone from the audience wished to speak or make a comment.

- Mary Hernandez asked about the sewer slip lining procedure that took place on her residential street a few weeks before. Mr. Petersen explained the process of slip lining, stating that this entailed creating lining within the existing sewer line which is being done in the older lines to extend the life of the existing sewer line for many years.
- Ken Martinez noticed in the recent newsletter that sod permits were being issued again this year. He questioned that policy because of the current water restrictions. Mr. Sintas explained sod permits were once again being issued from April 1 – May 15, 2008, the

same timeframe as last year, as the District is under Stage 2 of the water conservation plan. Mr. Anderson stated the District is working hard to acquire additional water sources so that the possibility to go to 3-day a week watering could happen.

- As Mr. Hacker's position on the Board is up for re-election, and two newly-appointed Directors may be in attendance at the next Board Meeting, he wanted, at this time, to thank the Board for working together the past two years. Mr. Schubert had asked Mr. Anderson to relay his thanks and appreciation to Mr. Hacker for his support while on the Board, also adding thanks and appreciation to Mr. Lovato as well.
- Wade Antener asked the Board how the initial WWTP permit was applied for as he was under the impression, and had the understanding by talking with State Officials, that it wasn't applied for as a permit. Mr. Petersen and Mr. Meyer answered, in detail, Mr. Antener's questions regarding the WWTP permit; they stated that the information that he was receiving was inaccurate and they explained the multiple stages of the filing and approval process and what had already been approved by the State Engineer's Office.

There were no more public comments.

#### ITEM 6:

⇒ Treasurer's Report

There was no Treasurer's Report.

#### ITEM 7:

⇒ Legal Report – Mr. Jim Felt

- Mr. Felt reported to the Board the lease cases in the Denver Basin are still ongoing.
- Mr. Felt reported to the Board on the "rules" case with the UBSGMD.
- Mr. Felt informed the Board that a legal malpractice suit has been filed on previous counsel, Mr. Pete Susemihl. Mr. Lee Rosenbaum, the District's elected counsel, has served Mr. Susemihl with the appropriate papers.

Mr. Lovato arrived at the meeting at 5:45 p.m.

#### ITEM 8:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). The recharge facility project is 98.1% complete. Final seeding is to be conducted in the immediate future. The Contractor is concentrating on the punch list that has been developed. The 10' x 10' electrical building has also been processed through Regional Building. Velocity Constructors' twelfth pay request has been received. With retainage at 5%, the net amount due the contractor is \$27,992.15. GMS recommends approval of the pay request in that amount.

**\*\*\*MOTION\*\*\***

**MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 12 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$27,992.15. SECONDED BY MS. JONES. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).**

- Design work has been completed on the WWTP Project, and specification preparation is also completed. Plans and specifications have been submitted to both the State Health Department and the Pikes Peak Regional Building Department. Allowing time for reviews to be completed, advertising will commence May 7, 14, and 21 with a June 5<sup>th</sup> bid opening. The project will be awarded at the Board of Director's June 10<sup>th</sup> Regular Meeting.
- Mr. Meyer provided to the Board the fourth draw request on the \$15 million dollar Revolving Fund Loan. This money has already been spent by Cherokee and is now being reimbursed back to the District. The total for this fourth draw is in the amount of \$101,975.50, and GMS is requesting this amount to be approved.

**\*\*\*MOTION\*\*\***

**MS. JONES MADE A MOTION TO AUTHORIZIE REIMBURSEMENT OF REQUISITION #4 BACK TO THE DISTRICT IN THE AMOUNT OF \$101,975.50. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).**

ITEM 9:

⇒ Manager's Report - Kip Petersen

- After extensive research, development and preparation over the past two and one-half years, Mr. Petersen was happy to report the Resubmittal of the Replacement Plan. The plan was hand delivered to the State Engineer's Office the first week of April. It is hoped the review process of this Plan will commence and the District will then be authorized to capture water. There is not a designated timeframe as to how long the State will take to respond to the District's Resubmittal.
- Mr. Petersen and Mr. Sintas attended the UBSGMD's regular Board Meeting last week, and a response from them is expected by July 1<sup>st</sup> regarding the Poleson export request.
- Legal counsel and several staff recently attended the restraining order hearing against Mr. Petersen in El Paso County Court. The Judge presiding at the hearing set aside the permanent restraining order as Mr. Whatcott, the plaintiff, was not present. The temporary restraining order is in effect for two more weeks, and a final hearing is scheduled for May 2. Under the circumstances, and in all likelihood, it is anticipated the temporary restraining order will be dismissed. A transcript of the hearing(s) will be given to the District's legal counsel to contemplate filing criminal charges against Mr. Whatcott.
- Mr. Petersen asked if that if there were any questions regarding the upcoming May 6<sup>th</sup> Board election, that Ms. Hardekopf was the District's Designated Election Official and they may contact her during business hours.
- Mr. Petersen introduced Bryan English who provided a brief synopsis of the Water Returns Program. This is a multiple, small Utility Districts' combined venture, to educate and promote xeriscape possibilities within the districts and to its residents by using workshops and educational conservation practices. Ms. Jones and others in the audience commended Mr. English on his efforts in resurrecting and producing a well-versed and attractive District newsletter.
- Mr. Byers asked how much water do we need and if the District was trying "to achieve a matrix." Mr. Petersen stated the District informally measures water usage, and the new WWTP is the avenue in the District's long-term goals to generate 1,500-2,000 acre feet annually. Mr. Petersen stated the District will always stay on some form of water restrictions based on the water conservation plan. Mr. Petersen stated that he would be happy to meet with Mr. Byers to explain, in more detail, Cherokee's operation and goals.

ITEM 10:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas provided an update on the District's water demands (see attached). Demands for March were 1.679 mgd compared to the same time last year of 1.739 mgd. The irrigation season has started with the Stage 2 water conservation plan being enforced.
- The valve replacement at Galley Rd. and Hathaway Dr. has been completed. Slip lining of the sewer lines in Peterson Rd. is complete, and enough funds are remaining to complete a portion of Mineola St. from Omaha Blvd. to Sioux Circle North.
- As part of the dissolved oxygen evaluation, improvements to the plant will include adding three floating aerators on the #3 Lagoon to increase the dissolved oxygen. These efforts should be completed within the next week pending approval from the state.
- The Colorado Springs Little League has adopted the District's Ball Diamonds for the next couple months at the Cimarron Eastridge Park. The District will provide the material in return for the Little League's labor for improvements.
- Because of the hot weather and untimely water conditions, School District 11 lost their sod that was installed last spring. They have asked for permission, and have received, to re-sod the same area this spring.

ITEM 11:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson provided his monthly report to the Board (see attached). There were a total of 11 closed days in March, which was five more than March, 2007. However, sales from March 21-31<sup>st</sup> accounted for more than 50% of March's sales and business, with a total of 1216 green fees sold, \$2,765.15 in grill revenue, \$2,751 in range revenue and \$24,180.60 as a grand total in Golf Course revenue.
- The Colorado School for the Deaf and Blind has started their spring golf program, and Rampart and Liberty high school ladies are back for the 2008 season.

Maintenance – Griff Rainford

- Mr. Rainford updated the Board on the March maintenance of the Golf Course (see attached). The course is coming around nicely

although the month has been a little cool and overnight temperatures have been low so green up has been slow.

- The irrigation system was charged and necessary maintenance performed. Some daytime watering occurred to help with aerification, and watering at night will commence once temperatures begin to climb. Three seasonal employees were brought back to help with the spring aerification and to help get the course ready for the nicer weather to come.
- All fairways have been aerified, and tree removal and pruning continues on the course.

ITEM 12:

⇒ Old Business

There was no old business to report.

ITEM 12:

⇒ New Business

Mr. Petersen stated he was asked by President Schubert to prepare a resolution for the Board's consideration. Mr. Petersen read Resolution 08-04, allowing an increase for the Board of Directors of the Cherokee Metropolitan District, adjusting the compensation for each Board Member setting the annual compensation of a Board of Director at a maximum annual amount of \$1,600, and per CRS-32-1-902, the maximum compensation for any meeting attended by a Board of Director shall be set at \$100.

Ms. Jones pointed out that Mr. Schubert asked the Board to review and approve this Resolution before the new Board came on board in May.

**\*\*\*MOTION\*\*\***

**MS. JONES MADE A MOTION TO APPROVE RESOLUTION No. 08-04, DESIGNATING AN ANNUAL COMPENSATION OF A BOARD OF DIRECTOR AT A MAXIMUM ANNUAL AMOUNT OF \$1,600, WITH THE MAXIMUM COMPENSATION FOR ANY MEETING ATTENDED SET AT \$100. MR. HACKER-YES; MR. LOVATO-NO; MS. JONES-YES, AND MR. ANDERSON-YES.**

At this time, Mr. Anderson asked for a short break. The meeting recessed at 6:39 p.m.

The regular meeting resumed at 6:48 p.m.

ITEM 14:

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

At this time, it was asked to go into an executive session so that the Board could review legal issues of contracts.

**\*\*\*MOTION\*\*\***

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

Executive Session was entered into at 6:49 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 (4-0).**

The Regular Session began at 7:16 p.m.

Mr. Petersen explained that discussions took place and the Board directed Mr. Petersen and Legal Counsel to continue moving forward on specific water acquisitions no details can be given until more negotiations have taken place.

The second item discussed is a legal matter regarding a water right issue that the Board has asked Legal to do what is necessary to force the performance of that water right. Because of potential litigation, more information can not be given at this time.

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 7:20 p.m.

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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