

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

August 14, 2007

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, August 14, 2007, at 5:30 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
Jim Culichia	Lily Baker
Art Sintas	Sandy DeCarolis
Sara Howard	Robyn Childers
Todd Laxson	Brian Beaudette
Griff Rainford	

OTHER GUESTS SIGNING ATTENDANCE LOG

Jim and Judy Burnside	Bryan Weiss
Linda and Jim Sowaskie	Ralph Weil
Mary Hernandez	Heath Herber
Chloe Olson	John Fuller
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. 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. Mr. Petersen requested the deletion of Item 13,

New Business, from the agenda because the representative from Terra Vista Communities was unable to attend the evening's meeting.

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

**MR. LOVATO MADE A MOTION TO AMEND THE EVENING'S AGENDA AS DISCUSSED BY REMOVING ITEM 13 AND APPROVING THE EVENING'S AGENDA, AS REVISED. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 4:

The Minutes of the Regular Meeting of July 10, 2007, were reviewed. No changes were noted.

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

**MR. HACKER MADE A MOTION TO APPROVE, AS WRITTEN, THE MINUTES OF THE REGULAR MEETING OF JULY 10, 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 five individuals raised their hands. He requested the comments to be limited to five minutes.
- Jim and Judy Burnside introduced themselves and their son, Bill McAfee. On August 7<sup>th</sup>, they delivered a letter to Mr. Petersen requesting negotiation of the lease the District has on their property. They wished to receive an acknowledgement of receipt of that letter. Mr. Petersen informed them that he did receive the letter and their letter was in the packet set for discussion in Executive Session.
- Heath Herber, of Westerra Development CO., wanted to make sure that the Board received the email informing regarding the educational information that his development is doing on xeriscaping practices combined with planting Kentucky bluegrass. Reports are the lawns are doing very well with 15-minute waterings twice a week. A new community is being developed at Muledeer Crossing with the first meeting with homeowners being scheduled in the very near future. Mr. Herber also stated that Colorado State University offers free educational materials regarding xeriscaping, and the community

is considering taking a more proactive approach of xeriscaping to its customers. Mr. Herber wanted to let everyone know that his development is practicing what they preach.

- Jim Sowaskie asked for an estimate of when the District would be releasing watering restrictions. Mr. Petersen advised that the District would always be on some form of water restriction with the most lenient stage being three times a week. Mr. Petersen stated with no promises, that Cherokee is targeting Stage 1 to be implemented in the Spring of 2008. Mr. Sowaskie voiced his concern that the District continues to allow development and why. Mr. Petersen stated, as before, that the new development is needed in order to generate revenue for new water and not put the burden on the existing long time residents.
- John Fuller asked for a brief update on the progress of the Gunzelman well purchase of water which would affect the development of Harbor Lights Church. He was told there were no new developments in terms of a specific timeframe to acquire this water.

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). There were no questions or comments.

#### ITEM 7:

##### ⇒ Legal Report – Mr. Jim Culichia

- Mr. Culichia advised the Board that after two and one-half years of preparation, the Denver Basin applications were ordered to be published. The Pueblo West/Colorado Springs Utility negotiation is in good order, and the short-term agreement for acquiring additional water is operating to plan.
- Mr. Culichia stated that in the process of the due diligence on the Gunzelman well it was found that the saturated thickness of the area is not good and the amount of water that could be produced for the cost may not be worth it, however, they are still reviewing the findings.
- They are still working on the Gregg/Albrecht wells that are located just south of the Tipton well. This well is located in a good part of

the aquifer with good saturated thickness. This contract for purchase of water is still being negotiated.

- The contempt hearing, resulting from the court ruling in March, 2006, was held two weeks ago in Pueblo, Division 2 Water Court. Cherokee's proposal was to allow for no pumping of wells 1-8 to the in-basin users, with the exception of Harding Nursery, to make up for the 250 acre feet of water that was pumped after the court ruling on March 17, 2006. Cherokee calculated that this would take 18 months to make up this shortfall. UBSWMD proposed a settlement on the condition the District would not pump from Wells 1-8 for two years with one exception of Harding Nursery. In this settlement, the District agreed to pay \$7,500 in attorneys' fees, and no penalty was placed upon the District.

ITEM 8:

⇒ Engineering Report – Ed Meyer

- Mr. Ed Meyer reviewed his memo provided to the Board (see attached). Mr. Meyer informed the Board that HD Supply Waterworks, Ltd., did not submit a pay request for the month of July.
- Pate Construction has submitted Pay Request #5. It reflects work accomplished through July 31, 2007. The amount earned is shown at \$886,772. Taking 5% retainage of the total contract amount into account, the net amount due the Contractor is \$2,018.01. GMS recommends approval of the pay request in that amount.

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

**MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST #5 TO PATE CONSTRUCTION IN THE AMOUNT OF \$2,018.01. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Velocity Constructors' pay request #4 has been received and is effective through July 26, 2007. The pay request shows \$550,657.03 earned. With retainage at 10%, the net amount due the Contractor is \$250,042.06. GMS recommends approval of the pay request in that amount.

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

**MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST #4 TO VELOCITY CONSTRUCTORS IN THE AMOUNT OF \$250,042.06.**

**SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- The Tipton Well has been completed, and quotations have been secured for the installation of a six-inch service line to the Harding Nursery property. This would be plumbed so Wells No. 7 and 8 could be used to provide water directly to Harding Nursery without commingling any of the North Well Field water with the water going out of the basin. This is a requirement as a result of the court settlement with UBSCMD. HD Supply has quoted the required material at \$11,283.41, and Carrigan Excavation has provided a quote of \$22,500 to install the line.

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

**MR. LOVATO MADE A MOTION TO APPROVE THE QUOTES OF \$11,283.41 FROM HD SUPPLY AND \$22,500 FROM CARRIGAN EXCAVATION AND ALLOW STAFF AND GMS, INC. TO REVIEW AND APPROVE TO SECURE INSTALLATION OF A LINE FROM WELLS NO. 7 AND 8 TO PROVIDE WATER DIRECTLY TO HARDING NURSERY. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- Carrigan Excavating's second pay request has been received and reflects \$352,117.80 earned to date. With retainage at 5%, the net amount due is \$134,516.66. GMS recommends approval of the pay request in that amount.

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

**MS. JONES MADE A MOTION TO APPROVE PAY REQUEST #2 TO CARRIGAN EXCAVATING IN THE AMOUNT OF \$134,516.66. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

- The pump for the Golf Course Irrigation Well has been selected with a pumping rate of 175 gallons per minute. Both the equipment acquisition bid as well as the installation bid are to be received on August 27<sup>th</sup> at 3 p.m. The skid-mounted equipment is programmed for a 60-calendar day delivery while the overall installation is to be completed in no more than 90 calendar days. Ms. Jones asked Mr. Meyer if a motion was required to authorize granting the award of the bid beforehand, and Mr. Meyer said that wouldn't be necessary however, there may be a need for a special meeting to award the bids so that the golf course well can get moving as quickly as possible.

At this time, Mr. Schubert asked for a short break. The meeting recessed at 6:37 p.m.

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

ITEM 9:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen provided the Manager's Report (see attached) to the Board and announced a tour of the District's facilities would be arranged for the Board of Directors on August 21, at 9 a.m. This will be posted as a work session, and no decisions will be made. Mr. Petersen is also planning a tour for the general public in the fall, and he is in the planning stages of setting a date for an "open house/talk to the Board and staff" type of meeting which will be held on a Saturday morning.
- The brochures outlining the District's accomplishments have been printed. These brochures will be mailed to any organization that is involved in the land development industry. Ms. Jones was concerned about the cost of preparing these brochures and the delay in getting them mailed. Mr. Petersen advised the cost of producing and mailing these brochures would be approximately \$10,200. She commended Mr. Petersen on the excellent write-up of his State of District letter and suggested he publish the same in the newspaper.
- The possibility of a VMS (variable message sign) being erected on the property adjacent to Palmer Park Boulevard has been discussed with Fire Chief Helton. Also under consideration is an emergency notification, automatic dialing program, to alert customers of watering emergencies. Mr. Petersen asked for input from the Board. Concerns addressed were cost and safety factors and limited exposure to only a small geographical section of the community with the VMS. The Board and Mr. Petersen did not see the value in placing a VMS up along Palmer Park Blvd. However, Mr. Petersen was requested to bring a program with all possible alternatives, involving costs, to the Board for their review and consideration.
- The Colorado Ground Water Management Policy Conference will be held at the Doubletree Hotel, Colorado Springs, on September 27 and 28. The conference will discuss opportunities, as well as constraints, for the storage of water in aquifers rather than the traditional, above-ground storage tanks. Mr. Schubert stated he would like to attend on September 27; Ms. Jones would also like to attend but needs to verify a date. Mr. Lovato will check his schedule and get back with Mr. Petersen, Mr. Anderson and Mr. Hacker would not be available to attend.

- An editorial in the *New Falcon Herald*, written by Kathy Hare of the UBSCMD, was discussed. Also, Mr. Petersen reported that the UBSCMD announced at their last meeting that they have terminated their association with their legal firm and hired new legal counsel for their District.

ITEM 10:

⇒ Water/Wastewater Report – Art Sintas

- Mr. Sintas reported the odor of the wastewater plant has diminished and operation is back to normal. The water demands of the District for June and July, 2007, were 3.8 MGD and 4.6 MGD respectively compared to 5.2 MGD and 4.1 MGD for June and July, 2006. Sixty percent of the Pikes Peak Wells' capacity has been used. Production has commenced with the Tipton and Guthrie Wells; and to date, 190 acre feet of water has been received from Colorado Springs Utilities.
- Since April, Mr. Sintas stated 1,019 violations have been issued, with 898 of those being warning violations: One hundred, \$50 violations; 20, \$100 violations; and one, fourth violation of \$350.00 One hundred, eight-six sod permits have been sold. He wanted to clarify that September 1<sup>st</sup> (the second installment of the sale of sod permits) begins on a Saturday, and he requested the Board to change the effective date to for purchasing a sod permit be made for August 31<sup>st</sup>, 2007.

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

**MR. HACKER MADE A MOTION TO APPROVE THE CHANGE OF ISSUING SOD PERMITS, COMMENCING AUGUST 31 IN LIEU OF SEPTEMBER 1, WHICH WOULD ALLOW FOR WEEKEND WATERING. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

ITEM 11:

⇒ Golf Course, Pro Shop – Todd Laxson

- Mr. Laxson highlighted on July's developments of the Golf Course stating the Golf Course has exceeded its 2006 totals projected for the Labor Day, 2007, weekend (see attached). A premiere

tournament of the summer, The Pepsi 3-Man Scramble, was held on July 7<sup>th</sup> and 8.

- Rounds of golf are ahead of last July by six percent. This is not taking into account any price changes, just rounds of golf. Driving range sales are ahead by 14% without any price changes from 2006, and the July, 2007, total revenue exceeds July, 2006, by more than eight percent.

Maintenance – Griff Rainford

- Mr. Rainford gave an updated report on the condition of the greens on the Golf Course (see attached). As of July 31, 2007, year-to-date water usage is 25% less than that of the same timeframe in 2006.
- Mr. Petersen wanted to commend and compliment Mr. Rainford and his staff for their hard work and efforts this summer on the excellent appearance of the Golf Course and feels this is one of the best courses in the Region. Mr. Petersen wanted everyone to know that he is proud to say that this is our course.

ITEM 12:

⇒ Old Business

- Mr. Lovato stated an individual is walking around the District, petitioning customers to request the city to annex the District, and it was believed to be the same individual as the “man with the shed.” The question was asked where we were on getting that situation resolved. Mr. Petersen stated that a draft letter was on his computer and would be sent out within a couple of days.
- Mary Hernandez asked if the District was still watering the Shawnee Park, and she was informed the District started watering the park two weeks ago. Jan Olson said the park looked ‘trashy,’ and Mr. Sintas said he would have staff look into that.

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), CONFERENCE WITH AN ATTORNEY**

**RECEIVING LEGAL ADVICE. SECONDED BY MS. JONES. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).**

Executive Session was entered into at 7:45 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.

Mr. Petersen reminded the Board of the District tour to begin at 9:00 a.m. at the District's office.

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 9:23 p.m.

-----  
Gayle Jones, Treasurer

Board Members

Ted Schubert, President  
Andy Anderson, Vice President  
Gayle Jones, Secretary  
Dave Hacker, Director  
Robert Lovato, Director

Term Expires

May, 2010  
May, 2010  
May, 2010  
May, 2008  
May, 2008