

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

May 11, 2010

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, May 11, 2010, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Robert Lovato
Steve Hasbrouck
Dave Hammers
Jan Cederberg
William Beahan

OTHERS PRESENT

Kip Petersen	Todd Laxson
Art Sintas	Griff Rainford
Jim Culichia	Len Meyer
Dian Hardekopf	Pete Heidebrecht
Sara Howard	Robyn Herzog
Sandy DeCarolis	Jon Waker
Ed Meyer	

OTHER GUESTS SIGNING ATTENDANCE LOG

Lynne Bliss	Audrey Clark
Dave and Linda Mattes	Mary Hernandez
Ken and Rita Martinez	David Mattes

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:30 p.m. Mr. Hasbrouck wanted to congratulate the Board of Directors in their newly-elected positions.

ITEM 2:

Mr. Hasbrouck asked Ms. Hardekopf to conduct the Oath of Office for the three new members. She asked Mr. Hammers, Ms. Cederberg, and Mr. Beahan to stand and raise their right hands and read together and affirm the Board of Directors' Oath of Office.

ITEM 3:

Mr. Hasbrouck asked for Ms. Hardekopf to do the roll call of the Board of Directors, all Directors were present.

ITEMS 4 and 5:

Mr. Hasbrouck asked if there were any changes or amendments that needed to be made to the Agenda. Mr. Petersen asked that an insertion be noted under New Business to approve a new member in an IGA between Cherokee Metropolitan District and the Pikes Peak Water Authority.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE AGENDA, AS AMENDED. SECONDED BY MR. LOVATO. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

Mr. Lovato stated at this time that, since he was elected to the Woodmen Hills Board of Directors, that when necessary, he will recuse himself from any conversations and voting processes involving both the Districts as they occur.

ITEM 6:

⇒ Appointment of Board Officers

*****MOTION*****

MR. HASBROUCK MADE A MOTION TO NOMINATE HIMSELF AS THE BOARD OF DIRECTORS' NEW PRESIDENT FOR THE UPCOMING TERM ON THE BOARD. THE MOTION DIED FOR LACK OF A SECOND.

MR. HAMMERS MADE A MOTION TO APPOINT MR. LOVATO AS PRESIDENT OF THE BOARD OF DIRECTORS FOR THE UPCOMING TERM. SECONDED BY MR. BEAHAN. THERE WERE NO OTHER NOMINATIONS. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS VOTED YES. MOTION CARRIED (5-0).

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPOINT MR. HASBROUCK AS VICE PRESIDENT OF THE BOARD OF DIRECTORS FOR THE UPCOMING TERM. MR. BEAHAN MADE A MOTION TO ELECT MS. CEDERBERG AS VICE PRESIDENT. MOTION TO ELECT MS. CEDERBERG DIED FOR LACK OF A SECOND. MS. CEDERBERG SECONDED MR. LOVATO'S MOTION TO APPOINT MR. HASBROUCK AS VICE-PRESIDENT. WITH A ROLL CALL VOTE, ALL BOARD MEMEBERS VOTED YES. MOTION CARRIED (5-0).

*****MOTION*****

MR. HASBROUCK MADE A MOTION TO APPOINT MS. CEDERBERG AS SECRETARY/TREASURER OF THE BOARD OF DIRECTORS FOR THE UPCOMING TERM. SECONDED BY MR. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT VOTED YES. MOTION CARRIED (5-0).

ITEM 7:

The Minutes of the Regular Meeting of April 13, 2010, were reviewed. Mr. Lovato asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF APRIL 13, 2010. SECONDED BY MR. BEAHAN. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 8:

⇒ Public Comments

- Mr. Lovato asked if anyone wished to speak from the audience. Mary Hernandez wanted to congratulate the newly elected Board of Directors and hoped the Board would work together for the better of Cherokee and would crush an ugly rumor purporting the new Board came with an 'agenda' to change things that didn't need to be changed.
- Assunta Manning wanted to know if there was anything in the District's by-laws disallowing a Board Member to be on two separate water boards. Mr. Lovato stated that statutes allow for such providing the member is a tax paying resident. Ms. Manning asked how Mr. Lovato would exclude himself when both boards were involved in a decision-making action. Mr. Lovato stated his vote has and will always count as one-fifth of the vote and as President, he only conducts the meeting; the Board acts as a

quorum. Mr. Petersen interceded and stated that if Mr. Lovato would have to recuse himself, the meeting would go to Vice Chairman for a four member vote.

- Mr. Mattes stated that a couple weeks ago, it was determined Well 16 could have been contaminated from an occurrence in the Upper Black Basin; and wanted to know why it took so long to bring out into the public. Mr. Petersen stated that he would be addressing that topic in his Manager's Report. There were no other public comments.

ITEM 9:

⇒ Legal Report – Mr. Jim Culichia

- Mr. Culichia updated the Board on the developments of several legal issues. He provided a short overview of the ongoing appeal on Wells 14-17, the legal status of the Replacement Plan, the Duncan Well, and the substitute water plan which is pending with Mr. Fontana's Golf Course and Cherokee Ridge Golf Course.
- The Denver Basin Lease Case is approaching a final decree which could possibly take place in the next few weeks.

ITEM 10:

⇒ Engineering Report – Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). The long-awaited State Health Department permit will hopefully be signed May 12th and will be effective June 12, 2010.
- Glacier Construction's 22nd pay request has been received and reflects \$16,408,481.90 earned to date. Taking both the retainage and the prior payments into account, the net amount due the contractor is \$93,608.55. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO APPROVE PAY REQUEST NO. 22 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$93,608.55.

SECONDED BY MR. BEAHAN. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Critical target dates have been established on multiple fronts for the final completion of the lift stations and recharge basins. The Operations Building tile flooring has been completed and accepted. Cherokee staff has taken occupancy of the office, control, and laboratory portion of the Operations Building.
- The 'wet test' consisting of automatic operation of the WWTF using on-site construction water will begin June 1. Start up of WWTF with raw sewage from Meridian and SAFB, the relocating of Lift Station No. 1 from SAFB to Peterson WWTF, and connection of Lift Station No. 2 piping to the existing force main will begin June 21.
- In coordination with Timber Line Electric & Control Corporation on the overall project, additional areas of activity have been defined which necessitate a needed change order amounting to \$3,727.00. This brings the increased contract amount to \$432,656.93. GMS recommends approval of the change order in the amount of \$3,727.00.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE CHANGE ORDER NO. 4 TO TIMER LINE ELECTRIC & CONTROL CORPORATION IN THE AMOUNT OF \$3,727.00. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- The Water Pollution Control Revolving Fund Loan Request No. 28 has been prepared, and it requests a total of \$119,821.60 to be remitted to the District to cover eligible costs for April. GMS recommends approval of the requisition on that amount.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #28 BACK TO THE DISTRICT IN THE AMOUNT OF \$119,821.60. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Meyer provided to the Board the attached Allocation of Costs on April's Contractor Draw Requests and a breakdown of the Project Expenditure Reimbursement Request.

ITEM 11:⇒ Manager's Report – Kip Petersen

- Mr. Petersen expressed his admiration to Ms. Hardekopf as DEO and Ms. Baker as her assistant in the recent election of the Board of Directors. From approximately 3,400 ballots being mailed, 510 were returned in the mail and there were 144 walk-ins. Mailing of the ballot cost \$.88 each. Voter turnout was comparable to the election which took place two years ago, whereby over 500 voters came in person and 40 ballots were mailed in.
- The water contract with CSU has been signed. The service agreement with Mark Fontana is being finalized; once finalized, this will allow Mr. Fontana to use the District's Sand Creek Wells, which is approximately 60-70 AF non potable water used only for irrigation purposes.
- Two employees have departed Cherokee. Bryan English has accepted employment with CSU, and Jeremy Pierce died in a recent car accident.
- Last fall Dan Farmer alerted Mr. Petersen when he noticed some extremely bright blue ponds while flying over the northeastern part of El Paso County and overheard there could be potential dumping of gold ore in these ponds. On September 24, 2009, Mr. Petersen filed a request with El Paso County to investigate a possible violation of land use which could be affecting the District's wells. The District notified the UBSGWMD in that same time frame to actively become involved in the investigation. El Paso County and the State had a difficult time determining probable cause for an administrative search warrant, but samples were retrieved from the pond in February, 2010. Six different kinds of metals were detected in the water, and it was then determined Diamond Wire, a plating operation from Colorado Springs, was transporting and dumping their waste into this pond. Well 16 was shut down, its water tested and came in clear and well below any threshold for drinking level contamination. The liquid in the pond has been pumped out by the State Health Department; however, the sludge has not been removed. Test wells will be drilled adjacent to the ponds and north of Well 16 and will be tested to ensure there is no further contamination.

ITEM 12:⇒ Water/Wastewater Report – Art Sintas

Mr. Sintas apprised the Board on water demands for April, 2010, the status on the twice-a-week watering schedule and the purchase of sod permits (see attached memo). Mr. Beahan asked if there was any possibility of a three-day-a week watering schedule for the year 2011, and Mr. Sintas stated we can't tell at this time but that is Cherokee's goal.

ITEM 13:

⇒ Golf Course

See attached memos. In the future, if the Board requests input from Mr. Laxson or Mr. Rainford, they will provide updates on an as-needed basis.

ITEM 14:

⇒ Old Business

There was no old business to report. Mrs. DeCarolis stated that a Treasury Report will be included in the packet provided to the Board at the meetings; and if they have any questions, she will be here to answer them in the meetings.

ITEM 15:

⇒ New Business

- Mr. Petersen briefed the Board stating TriView is requesting their membership to be reaccepted on the PPRWA. He asked the Board for their permission to sign this IGA.

*****MOTION*****

MR. BEAHAN MADE TO A MOTION TO AUTHORIZE THE MANAGER TO SIGN AN INTERGOVERNMENTAL AGREEMENT BETWEEN TRIVIEW AND PPRWAA. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Lovato wanted to thank the three Board Members who left, for their service this last term.
- Before the Board adjourned to go into Executive Session, Mr. Petersen reviewed the criteria for Executive Sessions and open sessions and

went over the seven factors necessitating the need for an Executive Session and what actions could not be discussed in Executive Session.

ITEM 16:

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

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO ENTER INTO AN EXECUTIVE SESSION CITING 24-6-402(4)(b) LEGAL CONSULTATION. SECONDED BY MR. BEAHAN. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

Executive Session was entered into at 7:23 p.m.

A short break was taken and the executive session resumed at 7:35 p.m.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RETURN THE MEETING TO THE OPEN SESSION OF THE REGULAR MEETING. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

The Regular Session began at 9:29 p.m.

With more legal issues to be discussed, the Board determined that a work session be scheduled before the next regular board meeting. It was suggested that a work session for the date of June 3, 2010 beginning at 4:00p.m. could work.

*****MOTION*****

MR. LOVATO MADE A MOTION TO SET JUNE 3, 2010 AT 4:00 P.M. AS THE DATE FOR A WORK SESSION TO DISCUSS FURTHER THE LEGAL ISSUES OF THE DISTRICT. SECONDED BY MS. BEAHAN. 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 9:32 p.m.

Jan Cederberg, Secretary

Board Members

Term Expires

Robert Lovato, President	May, 2012
Steve Hasbrouck, Vice President	May, 2012
Jan Cederberg, Secretary/Treasurer	May, 2014
Dave Hammers, Director	May, 2014
William Beahan, Director	May, 2014