

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

January 11, 2011

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, January 11, 2011, at 4:07 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Dave Hammers	Steve Hasbrouck
Larry Keleher	William Beahan
Jan Cederberg	

OTHERS PRESENT

Sean Chambers	Ed Meyer
Art Sintas	Griff Rainford
Kevin Donovan	Todd Laxson
Dian Hardekopf	Pete Heidebrecht
Sandy DeCarolis	Brian Beaudette
Len Meyer	

OTHER GUESTS SIGNING ATTENDANCE LOG

Linda O'Riley	Mary Hernandez
Andy Anderson	Gayle Jones
Linda Keleher	Rita Martinez
Dave Mattes	Kurt Williams
Walter Bell	Assunta Manning
Chloe Olson	

ITEM 1:

The meeting was called to order by Board President Mr. Hammers at 4:07 p.m.

ITEM 2:

Mr. Hammers asked Ms. Hardekopf for the roll call of the Board of Directors, all Board Members were present.

ITEMS 3 AND 4:

Mr. Hammers asked if there were any changes or amendments that needed to be made to the January 11, 2011, Regular Board Meeting Agenda. Mr. Hammers stated that he would like to add Security System under #14, New Business and Mr. Beahan asked that they have a moment of silence after the Executive Session for the people affected by the Arizona shooting.

*****MOTION*****

MR. KELEHER MADE A MOTION TO APPROVE THE AGENDA, WITH THE AMENDED REQUESTS. SECONDED BY MR. BEAHAN. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 5:

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

*****MOTION*****

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

Executive Session was entered into at 4:10 p.m.
The public was invited back into the meeting at 5:39 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).

A short break was taken before the regular session began.

Regular Session resumed at 5:45 p.m. At this time, Mr. Beahan asked for a moment of silence.

ITEM 6:⇒ Approval of Minutes

Prior to the approval of the December meeting minutes, Ms. Cederberg asked to make a motion to post the invoice showing the cost of the recall election on the District's WEB site.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO POST THE EL PASO COUNTY ELECTION DEPARTMENTS INVOICE SHOWING THE COST OF THE RECALL ELECTION. SECONDED BY MR. BEAHAN. WITH A ROLL CALL VOTE, MR. KELEHER-NO, MS. CEDERBERG-YES, MR. BEAHAN-YES, MR. HASBROUCK-NO, MR. HAMMERS-YES; MOTION CARRIED (3-2).

At this time, Mr. Hasbrouck asked if he could make a public apology to Ms. O'Riley, who was in the audience. Mr. Hasbrouck stated he wanted to offer his apology for interrupting her life and if he had offended her with anything that he may have said; and asked if she would accept his apology so that they could continue on with business. Ms. O'Riley stated that she felt he had no right to call her for no apparent reason other than her writing a letter to the editor. She then asked if she could read her letter aloud that she sent to Mr. Chambers and the Board. At this time, Ms. O'Riley read her letter and asked that it be placed in the minutes for the record (see attached).

The Minutes of the Special Meeting of December 14, 2010, were reviewed. Mr. Hammers asked if there were any changes that needed to be made to the Minutes. Mr. Keleher asked that when the motion for the posting of the Board Meeting Dates was approved that he believed there was discussion on the times. Ms. Hardekopf stated that the reading of the resolution had the meeting start times with an explanation of those meeting times; "Meetings with executive session on the agenda will start at 3:30 p.m. with public agenda commencing at or after 5:30 p.m. If no executive session is on the agenda, then the meetings will begin at 5:30 p.m." Ms. Hardekopf explained that this notice is filed with the December minutes. Mr. Chambers re-read the notice and added that the notice had been published in the newspaper along with being posted at the three posting sites and at the County Office.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF DECEMBER 14, 2010 AS WRITTEN. SECONDED BY MR. KELEHER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 7:⇒ Legal Report – Kevin Donovan

- Ms. Cederberg stated, because of the concerns from the community on the legal fees, she wanted everyone to know that Mr. Donovan is gracious enough to give Cherokee one meeting per month free, the same as Ms. Whitmore. Mr. Donovan stated he is doing this because he feels things are exciting here at Cherokee and he hopes to be part of the future of it.
- Mr. Donovan updated the Board and public that the legal matrix of the Cherokee legal issues is now available on the Cherokee WEB site. The good news is that Cherokee has not had any lawsuits or real motions filed against us and so he is staying out of the court room, the only case pending in the County Court is the case with Cimarron Hills Townhomes. At this time he is mainly working on getting water. Ms. Manning thanked him for this information but was wondering where the 'Culichia case' was, she did not believe she saw this case on the matrix. Mr. Donovan stated he would review the list, and if there were items missing he would update and have it re-posted to the WEB. Mr. Chambers stated that Cherokee would like to keep this updated at the least every quarter. It was asked if it could be placed in some type of date order if possible.
- Mr. Hammers asked if there was a way to place financial information on the site showing the expenses each month. Ms. Cederberg added that she would like to have the Board receive monthly budgets as to what has been spent versus last year. Mr. Chambers asked for this topic to be tabled until the Manager's report for further discussion.

ITEM 8:⇒ Engineering Report – Ed Meyer

- Mr. Meyer provided a report to the Board on the engineering activities for the month (see attached). Mr. Meyer asked for approval on Change Order #2 for Frazee construction in the amount of \$27,673.30 increasing the contract amount to \$740,777.75. The completion date is still set for February 17, 2011.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE CHANGE ORDER NO. 2 TO FRAZEE CONSTRUCTION IN THE AMOUNT OF \$27,673.30. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Meyer reviewed the pay request #2 to Frazee Construction in the amount of \$369,395.78 and recommended approval for this amount.

*****MOTION*****

MR. KELEHER MADE A MOTION TO APPROVE PAY REQUEST NO. 2 TO FRAZEE CONSTRUCTION IN THE AMOUNT OF \$369,395.78. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Beahan asked if anyone would be without water during this time. Mr. Meyer stated that it would only be industrial customers and it would be scheduled so all would be aware. Mr. Hammers asked if there were any issues in paying for the construction water. Mr. Meyer stated that all issues had been addressed and taken care of in the change order that was approved.

ITEM 9:

⇒ Public Comments

- Mr. Hammers asked the public if there were any suggestions on how to better advertise the start times for the meetings when there is an executive session to take place.
- Ms. Jones stated that she appreciated the clarification on the meeting times and felt that as long as the public is assured that the public portion of the meeting will always begin at 5:30 p.m. or later that helps.
- Ms. Hernandez commented that as long as the only thing done before the 5:30 p.m. time is executive session items that is good because she felt a couple of times that open session items were dealt with.
- Mr. Hammers asked if anyone knew whether or not the approval of the agenda had to be done at the beginning or if it could wait until after the Executive Session. It was stated by a few that no one saw any reason why that couldn't be changed to be placed right after the executive session; since the only reason for an early start would be for an executive session.
- Ms. Jones asked if there could be a more defined statement placed on the agenda as to the reason for going into an Executive Session other than just 'legal matters'.
- Mr. Mattes asked what the budget percentage increase was from 2010 to 2011, realizing that we may not be able to give that information right now, but stated it would be nice to know. Mr.

Mattes stated that he made a comment at last month's board meeting regarding HR staff and that HR is in place for protecting the company. He stated that after that meeting an individual approached him and verbally attacked him regarding the comment he made and it made him uncomfortable. He stated comments made by the public are not to hurt anyone but to help get information. He also, felt that the laughing and giggling amongst the Board and individuals at the table was rude.

- An individual from the audience read a statement from the Colorado Revised Statutes regarding executive sessions and that a Board or Council must announce the topic of an executive session with as much authenticity as possible without compromising the reason for the executive session. She went on to read more from this statute and an article called the secrecy game. She also wanted to note that she agrees with the comment made that Board Members should not be giggling at the table and that actions among the Board should be professional.
- Ms. Jones recalled some talks with Mr. Ted Schubert in the past and his concerns for Cherokee and our water source. Mr. Schubert at that time spoke of the Horse Creek water and Ms. Jones was curious as to why this water has not been spoken of in public sessions. Mr. Keleher stated that he was made aware of the Horse Creek water by a couple of people in the audience and from what he has heard, appears to be a great deal. Mr. Chambers stated that Mr. Kessel deserves a chance to speak.
- Mr. Kessel told the Board and audience that he has sent a proposal to Mr. Chambers prepared to front \$20 million dollars to get the pipeline here, with Cherokee paying for the change of use, which Mr. Kessel stated should be roughly \$700,000. All he is asking Cherokee for is a simple non-binding letter of intent with conditions to be met. Mr. Kessel also stated that they could help in re-sleeving the old 30" line. Mr. Beahan asked if he was the gentleman that called him and was told it was his business partner, Craig Tessen of Harlow Capital. Mr. Beahan asked if they have tried to sell this water to Cherokee before. Mr. Kessel stated that about a year ago he dealt with Kip Petersen, who sent a letter back wanting the information on the water more defined. Discussion ensued as to what the Board should do in acquiring more information on how much water is really there, how sustainable is the water, at what costs to the District and what would be involved in a non-binding letter of intent. Mr. Kessel stated that if he can't get a letter of intent, he will move on. Mr. Hammers asked that Mr. Donovan begin a draft for a letter of Intent with input from Mr. Chambers, Ms. Whitmore and the Engineers. Mr. Keleher stated

getting what we need if we want to move forward. A copy of a letter, from Mr. Kessel, regarding a revised proposal was given to the Board (see attached).

ITEM 10:

⇒ Manager's Report - Sean Chambers

- Mr. Chambers provided his Manager's Report Memorandum to the Board (see attached). He explained that the late tap fee payment was finally paid by Tierra Vista Communities, however we are still waiting for the late payment fee. Staff and GMS, Engineering are continuing to work on supplemental information to move forward on the increased rates to SAFB.
- Mr. Chambers announced that there will be a District Water Workshop on Tuesday, January 25th commencing at 5:30 p.m. The presentation will focus on District's water rights, their location, the legal use, an overview of the Upper Black Squirrel Creek Groundwater Management District, and other water topics. There will also be a meeting beginning at 2:30 p.m. for executive session to discuss water purchase/negotiations.
- Mr. Chambers asked for some direction on how the Board would like to see financial information provided to them during the Board meetings. Mr. Chambers stated that Ms. DeCarolis would make herself available to give a report. Various formats of financial information has been given to the Boards in the past, however, it would be helpful to have a clearer idea of what the Board is looking for. Discussion ensued on ideas from, a list comparing expenditures of current years against the last year's to a breakdown of the attorney's cost to the District. Ms. DeCarolis will provide a budget report that was normally given on a quarterly basis, each month and the Board can determine from there what, if any, other information they would like to receive.
- Mr. Chambers reported that the 2010 Parks audit was accepted by the Division of Local Governments. There was some confusion on how our medians were classified but has now been cleared up.
- Mr. Chambers reported that the proposal to the Upper Black Squirrel had been received by the UBS and they have had discussions within their Executive Sessions. As of yet, we have not received any formal response from them. Mr. Chambers advised the Board that his opinion is that Cherokee should be working to meet with the UBS and/or its President, Mr. Dave Doran so at the very least maybe some of the smaller issues can be worked out, and so the issues of recharge vs. replacement can be discussed.

- Staff is also working with getting the processing of on-line bill pay for the water and sewer billing system.
- Mr. Chambers pointed out a packet of information for the Board (see attached). One article is on "History on Colorado Water Usage" and stated we would be posting the article on our District's WEB site. Also, in the packet is information on the Colorado Water Congress Convention and encouraged the Board to sign up if there was any agenda item that looked appealing.
- Mr. Chambers reviewed the long range system and supply planning that is outlined in his Manager's Report. The Manager's report will be posted on the District's WEB site.
- Ms. Manning wanted to clarify if the workshop scheduled for the 25th was for the public or for the Board. Mr. Chambers stated it was for the public, that it would not be a meeting; however, any Board Member or staff member could attend. It will be a good informational tool for many.
- Ms. Jones asked Mr. Chambers if there was any update on the Sunset Metro account situation. Mr. Chambers stated that we have not received the letter from the County Attorney. Also, the assets that Sunset Metro has been operating with are in a bankruptcy case and will more than likely be handled by a US Trustee, and what that will hopefully do is allow Cherokee to get on a payment schedule for this account.

ITEM 11:

⇒ Water/Wastewater Report - Art Sintas

- Mr. Sintas provided an update on Water Demands for December (see attached). Mr. Sintas also, stated that well #13 is back in service and put back on line before Christmas. The remaining 5 acre feet plus an additional 5 acre feet was used from the City to meet the demands while #13 was out of service. Mr. Sintas reported that there were two water leaks since the last Board meeting, but neither of the leaks were large.

ITEM 12:⇒ Golf Course

- See attached memos regarding the Pro Shop and Golf Course Maintenance. There were no questions or concerns at this time.

ITEM 13:⇒ Old Business

There was no old business to discuss at this time.

ITEM 14:⇒ New Business

- Mr. Chambers read aloud Resolution #11-01 setting the locations for the District's meeting agendas to be posted. This is a requirement for Special Districts to have three specified locations where all meetings are posted so that the public has the opportunity to view what topics may be discussed at any given meeting. Mr. Chambers asked for approval of the Agenda Posting Resolution as read.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO ACCEPT RESOLUTION #11-01, POSTING OF THE DISTRICT'S MEETING AGENDAS, AS READ. SECONDED BY MR. KELEHER. ALL MEMBERS PRESENT APPROVED (5-0).

- Mr. Hammers asked, if the Board agreed, to have Mr. Chambers look into what a security system may cost for the lobby area. Discussion of locating cameras towards the District's payment drop box and at the front door and/or lobby ensued.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO MOVE FORWARD WITH A SECURITY SYSTEM FOR THE DISTRICT'S MAIN OFFICE BUILDING. SECONDED BY MS. CEDERBERG. ALL MEMBERS PRESENT APPROVED (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 8:04 p.m.

Jan Cederberg, Secretary

Board MembersTerm Expires

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