

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

December 13, 2011

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, December 13, 2011 at 3:00 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Dave Hammers	Larry Keleher
Jan Cederberg	Steve Hasbrouck
William Beahan	

OTHERS PRESENT

Sean Chambers	Sandy DeCarolis
Art Sintas	Griff Rainford
Dian White	Todd Laxson
Sandy DeCarolis	Kevin Donovan
Marti Whitmore	Joe Drew
Al Watson	Roger Sams
Pete Heidebrecht	Rick McKay
Peter Elzi	

OTHER GUESTS SIGNING ATTENDANCE LOG

Mary Hernandez	Dave Hacker
Clyde Depew	Mark Greeley
Andy Anderson	J LeDean
Patti Teall	Schafer
Walter Bell	David Mattes
Dave Mattes Jr	Rita Martinez
Chloe Olson	

ITEMS 1 and 2:

The meeting was called to order by President Dave Hammers at 3:04 p.m. Roll call of the Board of Directors was taken; all Directors were present.

ITEMS 3 and 4:

Mr. Hammers asked if there were any changes or amendments that needed to be made to the December 13, 2011 Regular Board Meeting Agenda. Mr. Chambers asked to add Mr. Peter Elzi, of THK Associates, to agenda item #8 for an updated report on the revised Operational Review and Market Analysis proposal for the Cherokee Ridge Golf Course.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR BOARD MEETING OF DECEMBER 13, 2011 WITH THE ABOVE MENTIONED CHANGE. SECONDED BY MR. BEAHAN. WITH A VOICE VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

ITEM 5:

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

Mr. Hammers asked if there was a need for an Executive Session. Mr. Chambers stated that a letter was received from the UBSCGWMD regarding wells 1-8 and that a briefing by legal counsel along with strategy needed to be discussed within an Executive Session setting.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO ENTER INTO EXECUTIVE SESSION CITING CRS-24-6-402(4)(b), FOR THE PURPOSE OF DISCUSSING LEGAL STRATEGIES FOR WELLS 1-8. SECONDED BY MS. CEDERBERG. WITH A ROLL CALL VOTE, MR. KELEHER-YES; MS. CEDERBERG-YES; MR. BEAHAN-YES, MR. HASBROUCK-NO; MR. HAMMERS-YES. MOTION CARRIED (4-1).

Executive Session began at 3:09 p.m.

*****MOTION*****

MR. KELEHER MADE A MOTION TO COME OUT OF THE EXECUTIVE SESSION AND RESUME THE PUBLIC SESSION OF THE REGULAR MEETING. SECONDED BY MS. CEDERBERG. WITH A VOICE VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

The Executive Session ended at 4:39 p.m.

Mr. Hammers reported that the discussion within Executive Session was on a letter received from the UBSCGWMD regarding Cherokee's use of Wells 1-8 and that some clarification on this letter was needed before proceeding any further. Legal Counsel will continue to review the decrees and applicable law.

*****MOTION*****

MS. CEDERBERG MADE A MOTION DIRECTING MS. WHITMORE TO SEND A LETTER TO UBSCGWMD FOR CLARIFICATION OF THEIR LETTER DATED 11-29-2011. SECONDED BY MR. KELEHER. WITH A VOICE VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

The meeting recessed at 4:41 p.m.

The open session of the Regular Meeting resumed at 5:34 p.m.

ITEM 6:

⇒ Public Session Report on Executive Session – Dave Hammers

Mr. Hammers stated that the Executive Session discussion was on a letter received by Cherokee from the UBSCGWMD regarding wells 1-8 and that the result of the discussion was to direct legal counsel to send a letter to the Upper Black Squirrel District to clarify items within their letter and seek extension on the District's response.

ITEM 7:

⇒ Approval of Minutes

Before approval on the minutes of previous meetings held by the Board, Ms. Cederberg thanked Ms. Howard and Ms. White for the professional job on writing the minutes for the District, and keeping the official record of actions taken.

The Minutes of the Regular Board Meeting of November 8, 2011 were reviewed. Mr. Hammers asked if there were any changes that needed to be made to the Minutes. No changes were made.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR BOARD MEETING OF NOVEMBER 8, 2011 AS WRITTEN. SECONDED BY MR. KELEHER. WITH A VOICE VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

The Minutes of the Special Meeting of November 22, 2011 were reviewed. Mr. Hammers asked if there were any changes that needed to be made to the Minutes. No changes were made.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE MINUTES OF THE SPECIAL BOARD MEETING OF NOVEMBER 22, 2011 AS WRITTEN. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The Minutes of the Special Meeting of December 6, 2011 were reviewed. Mr. Hammers asked if there were any changes that needed to be made to the Minutes. No changes were made.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE MINUTES OF THE SPECIAL BOARD MEETING OF DECEMBER 6, 2011 AS WRITTEN. SECONDED BY MR. KELEHER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 8:

⇒ District Business

- Mr. Chambers stated that there have been two public hearings held, October and November, 2011, for the report and approval of changes for Ordinance 84-001 on Cross Connection and Backflow Control. From those sessions, Mr. Stolz, a resident of the District had some written concerns that were addressed by staff. Mr. Sintas reported he and Mr. Donovan met with Mr. Stolz before the meeting resumed. Mr. Sintas reviewed staff's written response to Mr. Stolz and explained that there may have been some confusion on the Ordinance as being new to the District. It was explained that Ordinance 84-001 had been written and approved back in 1984 and the changes were to bring the Ordinance up to date with Regional Building Code current regulations. (Copies of letters and ordinance filed in District office).

Mr. Sintas recommended the approval and adoption of the amendments to Ordinance 84-001 as presented. Mr. Beahan asked if the ordinance number will change with these amendments. Ms. White stated that the cover page for the ordinance will show the dates of the amendments when approved by the Board.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO ACCEPT AND APPROVE THE AMENDMENTS TO THE DISTRICT'S ORDINANCE 84-001 FOR CROSS CONNECTION AND BACKFLOW CONTROL. SECONDED BY MR. HASBROUCK. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

- Mr. Chambers introduced Mr. Joe Drew of Drew Financial, LLC. Mr. Drew handed out an overview of his municipal financial advisor credentials, a sample agreement for consulting services, and water/wastewater financing alternatives (documents on file in District office). Mr. Drew is an independent Financial Consultant having numerous clients including Parker Water and Sanitation District, Security Water District, Donala Water and Sanitation District, and more. Mr. Drew reviewed what his qualifications are and how he could help in facilitating financial planning for large dollar projects and get the best rates for the District. Mr. Beahan stated that the reason the District brought Mr. Drew in for an interview is to help Cherokee with funding to bring water to the District. Mr. Chambers stated that there are several projects that Cherokee needs help in financing and believes that Mr. Drew would be an asset to the District in that effort.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO HIRE MR. JOE DREW FOR COUNSULTING ON BONDING AVAILIBLITY AND MUNICIPAL BOND OPTIONS BASED ON STAFF COMING BACK TO BOARD WITH PRICING STRUCTURE FOR THE BUSINESS AGREEMENT. SECONDED BY MS. CEDERBERG. WITH A VOICE VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

- Mr. Chambers presented and read to the Board, Resolution #11-04, declaring official intent to reimburse itself with proceeds of future borrowing for certain capital expenditures by the District (copy on file in District office). The Resolution will allow the District to reimburse itself for money spent on water at Sundance Ranch. Mr. Chambers asked for approval of this resolution. Mr. Hammers stated that he believed this to be an essential resolution for the Districts financing and recovering capital spent on water resources this past fall.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO APPROVE RESOLUTION #11-04 AS PRESENTED AND READ BY MR. CHAMBERS. SECONDED BY MR. BEAHAN. WITH A VOICE VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

- Mr. Chambers explained the contract with CSU for Regional Water Service as discussed at prior meetings. Mr. Chambers stated that because CSU changed their charter on how they will deal with outside entities, he was able to go back to the City and ask to negotiate a contract to wheel other waters that Cherokee would purchase. The City just approved, this evening, the new contract for Cherokee and Mr. Chambers asked that the Board also approve the Short-Term Regional Water Service Contract signed with the City.

*****MOTION*****

MR. KELEHER MADE A MOTION TO APPROVE THE NEW CONTRACT WITH CSU FOR REGIONAL WATER SERVICE, PENDING REVIEW OF THE FINAL SIGNED CONTRACT FROM CSU. SECONDED BY MS. CEDERBERG. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

- Mr. Chambers gave a quick report on the UBSCGWMD's challenge of the use of Wells 1-8 and that the Board is seeking clarification from UBS and stated that this may end up in litigation due to significant disagreement over legal entitlement. Staff and the Board should know more by the next Regular Board Meeting.
- Mr. Chambers stated that earlier in the evening, the Board added a report from Mr. Peter Elzi, of THK & Associates, regarding the Cherokee Ridge Golf Course operations. Mr. Chambers stated that the last time an audit was done on the golf course was back in 2007 and a review of the course's operations compared to others in the region is beneficial. Mr. Elzi reported that he would not recommend privatization of the course as it is looking positive and doing well. The staffing is very efficient and found that they do more with less employees compared to some other courses. Mr. Elzi had a few recommendations and will put together the draft review report for the January 10th Regular Board Meeting.

ITEM 9:

⇒ **Engineering Report – Roger Sams**

Mr. Sams handed out a memo for the evenings Engineering report (copy on file in District office). Glacier Construction has submitted Pay Request #30 reflecting \$16,924,019.30 earned to date. Taking into account the prior payments, the net amount due to Glacier Construction for pay request #30 is \$41,355.59; GMS recommends approval of Pay Request #30 in that amount.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE PAYMENT OF PAY REQUEST #30 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$41,355.59. SECONDED BY MR. KELEHER. WITH A VOICE VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

Mr. Chambers introduced Mr. Al Watson, and handed out DSI Company bio and credential information put together by Mr. Watson. Mr. Chambers explained that Cherokee hired Mr. Watson as an owner representative's layer of protection tasked to oversee the modification of the RIBS project with GMS.

Mr. Sams stated that the contract for the modification for the Rapid Infiltration Basin Nos. 3 & 4 was awarded to RE Monks Construction Company, LLC during the Special Meeting held November 22, 2011. Mr. Sams presented a Contract Modification Order (CMO) explaining that the Board agreed to provide additional compensation to the Contractor for early completion of the project. The maximum amount for the early completion is \$50,000. Mr. Sams asked the Board for approval of the CMO #1 with the amount not to exceed the maximum of \$50,000, based on the District's need to complete the project ahead of schedule.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE CONTRACT MODIFICATION ORDER IN THE AMOUNT NOT TO EXCEED \$50,000 TO RE MONKS CONSTRUCTION COMPANY, LLC. SECONDED BY MS. CEDERBERG. WITH A VOICE VOTE, ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

Easements for the Duncan Well have been agreed upon with the remaining two property owners. Field surveying activities for the pipeline alignment have been initiated.

ITEM 10:

⇒ Budget Hearing – Revised 2011 Budget & Proposed 2012 Budget

*****MOTION*****

MR. HASBROUCK MADE A MOTION TO ENTER INTO A BUDGET HEARING TO REVIEW BOTH THE REVISED BUDGET FOR 2011 AND THE PROPOSED 2012 BUDGET. SECONDED BY MR. KELEHER. WITH A VOICE VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

The Budget Hearing commenced at 7:57 p.m.

Mr. Chambers reviewed the need for a revised budget for the current 2011 budget year, stating that the biggest item was the payoff of the 1998 bond series, which will save significant interest expense in years ahead, and also the transfer of \$350,000 to the Golf Course Fund for the new well project. There were no questions regarding the revised 2011 budget.

Mr. Chambers and Ms. DeCarolis reviewed the proposed 2012 budget stating that the only line item change from the previous 2012 budget presented was additional monies to the Water Rights Purchase budget line. Mr. Chambers commented that the salary and benefits were all flat lined per Board discussion and direction and there were no changes made from the 2011 budget year. Mr. Chambers let the Board know that he and staff will work to do more with less as this budget year will be extremely tight; especially since management and staff have worked for the past four years to eliminate unnecessary expenses. There was brief discussion about revisiting budget and compensation later in the year.

*****MOTION*****

MR. KELEHER MADE A MOTION TO CLOSE THE BUDGET HEARING FOR THE REVIEW OF THE REVISED BUDGET FOR 2011 AND THE PROPOSED 2012 BUDGET. SECONDED BY MS. CEDERBERG. WITH A VOICE VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

The Budget Hearing closed at 8:03 p.m.

ITEM 11:

⇒ Adoption of Budgets

- Mr. Chambers read aloud Resolution #11-05 for the Supplemental Budget and Appropriation for budget year 2011 (copy filed in District office). Mr. Chambers asked for approval of this resolution as read. There were no comments.

*****MOTION*****

MR. KELEHER MADE A MOTION TO APPROVE RESOLUTION #11-05 FOR SUPPLEMENTAL BUDGET AND APPROPRIATION AS READ. SECONDED BY MR. BEAHAN. WITH A VOICE VOTE, ALL MEMBERS PRESENT APPROVED (5-0).

- Mr. Chambers read Resolution #11-06 Budget Appropriation for Budget year 2012 (copy filed in District office) and asked the Board to approve the Resolution as read. There were no comments.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE RESOLUTION #11-06 APPROPRIATION FOR BUDGET YEAR 2012 AS READ. SECONDED BY MR. KELEHER. WITH A VOICE VOTE, ALL MEMBERS APPROVED. MOTION CARRIED (5-0).

ITEM 12:

⇒ Legal Report – Kevin Donovan, Marti Whitmore

Mr. Donovan reported that Cherokee's appeal on wells 14-17 briefs were due, however, UBSCGWMD asked for an extra week and was granted. Mr. Donovan believes that the oral arguments for this appeal will be in April or May.

The Supreme Court granted Meridians appeal for their inclusion on the Recharge vs Replacement case as they stated they should have an opportunity to argue. The case will go back to Judge Maes.

ITEM 13:

⇒ Golf Course

There were no questions on the memos from Mr. Laxson or Mr. Rainford at this time. (memos on file in District office).

ITEM 14:

⇒ Manager's Report – Sean Chambers

Mr. Chambers stated that he replaced his normal monthly Manager's Report with the 2012 Budget Memo to the Board. Mr. Chambers highlighted items within the memo letting the Board know that he would proposed increasing the after-hours turn on fee from \$45 to \$65 in an attempt to give customers the incentive to have water service re-connected during the normal work hours. After hours re-connects cost the District overtime, additional fuel and they present safety concerns.

As a result of comments made at previous meetings from Mr. Laughlin regarding Cherokee's way of charging a residential flat sewer fee to each account; Staff examined how the fee could be structured more equitable. The result is the District lowering the base residential sewer availability fee from \$30 to \$26.70 per month with a consumption based charge of \$1.15 per unit domestic wastewater calculated on an average winter water use. The average would be based on the December through February water billings to be implemented with the March billings of each year. Also, a small increase in the water rate structure will be implemented beginning with the billings for February, 2012. The first 5 per unit charge will increase .5% to \$3.90/unit; the next 15 per unit charge will increase 8.9% to \$5.25/unit; the next 15 per unit charge will increase 9.9% to \$7.95/unit and all units above the 35 units will increase 12.5% to \$12.25/unit.

Mr. Chambers stated that on March 1, 2012 the State Round Table meeting will be held and invited any Board Member interested to attend.

A meeting for the Super Ditch will be held in the District's office on December 14, 2011 at 2:00 p.m. for anyone interested in attending.

Mr. Chambers stated that he along with Mr. Joe Drew, would be attending a meeting on December 15, 2011 at the Water and Power Authority regarding funding and bonding capabilities.

Mr. Chambers reported that he sent comments on Cherokee's behalf to the County regarding land use draft regulations on Oil and Gas industry. Mr. Rainford stated that there are recent requirements by the State Disclosures of fracking fluids. Mr. Stolz commented that CNN reported that there is fracking fluid found in the waters.

Mr. Chambers handed out a draft letter to the Board for the demand schedule for Mr. Kessel and would like to get input from the Board for any additions or changes to this draft. Mr. Beahan stated that he understood from Mr. Hammers comments at the last meeting, that Cherokee needs a detailed proposal from Mr. Kessel providing 500 acre feet by the end of 2012 with a line to the Tamlin Tank. Also including engineering information on the amount of water that is available. The Board directed Mr. Chambers to refine the demands and send them to Mr. Kessel with request for proposal and engineering.

A comment was made from the public stating that they understood that no engineering had been done on Mr. Kessel's water as there have not been any wells drilled. Mr. Hasbrouck stated that there were no wells drilled with the Greenland Basin water that Cherokee just purchased. Mr. Hammers commented that with any project that Cherokee is looking at, the District needs to do good due diligence.

ITEM 15:⇒ Public Comments

Ms. Martinez told the Board that she had an opportunity to speak with Mr. Kessel regarding his water and her concern that he may not be trustworthy. Ms. Martinez questioned why Mr. Hasbrouck is pushing to back Mr. Kessel up on having the District purchase his water.

ITEM 16:⇒ Water/Wastewater Report – Art Sintas

Mr. Sintas reviewed his memo and apprised the Board on water demands for the month of November, 2011. Mr. Sintas believes the District will be covered through the end of the year on the water supply remaining. (memo on file in District office).

Mr. Beahan questioned on how many lots would be available within the newer subdivision of Whispering Springs. Mr. Sintas stated that there were 68 lots platted for phase 1 and 80 lots for phase 2. Mr. Chambers noted that there have been inquiries on these undeveloped projects and others, but noted that the District still mandates that a developer bring wet water to the table that is municipal and available for use in the District.

ITEM 17:⇒ Old Business

There was no old business at this time.

ITEM 18:⇒ New Business

- Mr. Chambers read the Legal Notice detailing a list of meeting dates for calendar year 2012 (notice on file in District office). Mr. Chambers stated that the meeting scheduled for May, 2012 needed to be scheduled for earlier as the normal second Tuesday is set for the District's Special Election.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE LIST OF CALENDAR DATES FOR THE 2012 REGULAR BOARD MEETINGS AS READ. SECONDED BY MS. CEDERBERG. WITH A VOICE VOTE, ALL MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Chambers stated that with the May election coming up, the Board needed to appoint by resolution, a Designated Election Official (DEO). Mr. Chambers read resolution #11-07, Certificate of Appointment of Designated Election Official.

*****MOTION*****

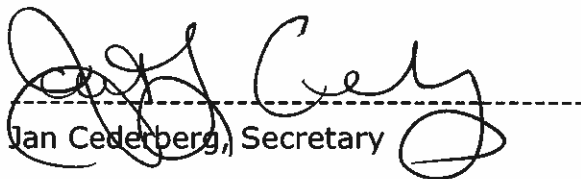
MR. BEAHAN MADE A MOTION TO APPOINT MS. WHITE AS THE DISTRICT'S DESIGNATED ELECTION OFFICIAL FOR THE MAY 2012 ELECTION. SECONDED BY MR. KELEHER. WITH A VOICE VOTE, ALL MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 18:

⇒ Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned.

The Meeting adjourned at 9:18 p.m.


Jan Cederberg, Secretary

Board Members

Term 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