

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

January 13, 2010

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, January 13, 2010, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Steve Hasbrouck
Kurt VandenBoogaard
Robert Lovato
Dave Hacker

OTHERS PRESENT

Kip Petersen	Todd Laxson
Dian Hardekopf	Griff Rainford
Jim Culichia	Len Meyer
Ed Meyer	Sara Howard

OTHER GUESTS SIGNING ATTENDANCE LOG

Mary Hernandez	Jan Cederberg
Rita Martinez	Chloe Olson
Richard Dutt	Lynne Bliss

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:31 p.m. Ms. Hardekopf called roll call of the Board of Directors, all Directors were present except for Sean Byers who was excused.

ITEMS 2 and 3:

Mr. Hasbrouck asked if there were any changes or amendments that needed to be made to the Agenda. Mr. Petersen asked that Resolution 10-2 be placed on the Agenda under New Business.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE AGENDA, AS AMENDED. SECONDED BY MR. HACKER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

ITEM 4:

The Minutes of the Regular Meeting of December 8, 2009, were reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF DECEMBER 8, 2009. SECONDED BY MR. HACKER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

ITEM 5:⇒ Public Comments

- Mr. Hasbrouck asked if anyone wished to speak from the audience. Mary Hernandez stated she had missed the last couple of board meetings and said she was not happy about the District's upcoming rate increases. She said she would have to let her backyard go to weeds, and residents in the community would be greatly hampered in their gardening efforts. According to her calculations, she said water rate increases have gone up 154.9% in the last ten years, and there were only four years rates were not raised. Mr. Hasbrouck advised Ms. Hernandez that the Board spent the last four months of last year discussing the alternatives and necessity of raising water rates, and this was not an arbitrary decision made by one person. The District had no choice but to raise its rates and is continually searching for more water. Mr. Lovato suggested that hopefully the District will be able to taper back on its needs to purchase water from CSU, which is projected to increase 300%.
- Mr. Hasbrouck stated that, in the past, budgetary decisions did not involve the on-going need for capital improvement, especially in the

upgrade of the District's infrastructure. This is of a priority now and not only this District but most likely every water district will be experiencing an inevitable yearly 7-10% increase.

- Mr. Dutt, a resident of the District, asked the Board how the District will be impacted should it lose the contract on Wells 14-17. Mr. Petersen stated the District is budgeted for the worst scenario, stating the District may have to continue buying some of its water from CSU while continually searching for additional water sources outside the District. Currently the District is in a two-year contract negotiation with CSU; after that time, contracts will need to be renegotiated. Mr. Dutt also asked where he could get more information regarding the District. Mr. Petersen stated that the Cherokee web site is a good place to start but to also call and arrange some time with him to discuss Cherokee's operations.
- Mr. Hacker commented that both he and his wife are on fixed incomes and both have part-time jobs. As a Board Member, it was difficult for him to vote on the increase of water rates, but it had to be done.
- Ms. Hernandez asked what the outcome of talked-about meetings with the Upper Black Squirrel District (UBSMD) had been. These meetings never materialized because of the wishes from UBSMD wanting closed door discussions only with the District's Board Members, excluding legal counsel and Mr. Petersen from the meetings. Since this was not a desirable option by the Cherokee District, as Cherokee does not run the operations in this manner. As a result of this, the Upper Black Squirrel District refused to have these meetings take place.
- Rita Martinez asked if the tap fees for SAFB Housing have been paid, and Mr. Petersen said they have, explaining how the federal government has a seven-year contract with the District to make payment on these tap fees.

There were no other public comments.

ITEM 6:

⇒ Legal Report – Mr. Jim Culichia

- Mr. Culichia updated the Board on the developments of the Replacement Plan which has been rescheduled for trial in the undetermined future.

- Mr. Lovato asked why the Upper Black Squirrel Management District would oppose a plan that would ultimately help the Basin. Mr. Lovato was told that unfortunately the Management District has never really managed the basin as they only want to manage Cherokee. Ms. Lynne Bliss asked with the upcoming election for the Upper Black Squirrel District if Cherokee was allowed to vote. Mr. Petersen explained that because Cherokee does not live within the Basin that neither the District nor its customers have a right to vote even though they do have a vested interest.
- The contract with Mildred Duncan to purchase 95 acre feet of water was terminated in December, 2009, and will be revised to hold the money in escrow contingent upon the outcome of the physical supply of water and the determination of the export permit.
- In December, legal counsel filed the substitute supply plan for the Golf Course and Fontana's Golf Course; and it should be approved in mid-March.

ITEM 7:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Glacier Construction's 18th pay request has been received and reflects \$15,742,244.40 earned to date. With retainage at 5%, the net amount due the contractor is \$176,828.64. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 18 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$176,828.64. SECONDED BY MR. VANDENBOOGAARD. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Ninety percent of the wire has been pulled throughout the site, and all buildings are now energized.
- SBR Basin Nos. 1 through 4's walkways and handrails remain at 98% complete. ITT-Advanced Water Treatment remains at 73% complete pertaining to startup and training for owner furnished SBR blowers and equipment. Overall the Operations Building remains 90% complete.

- The digester building is 94% complete. The solids handling building is 94% complete. The UV Building is 95% complete, and the liquid transfer station is 99% complete.
- In conclusion, the Wastewater Treatment Plant is approximately 93% complete. Occupancy may take place in early February, and six staff members will be employed. A grand opening is anticipated mid-May.
- Pay Request No. 6 has been received from ITT-Advanced Water Treatment and addresses Change Order No. 3 approved at the Board's last meeting. The Pay Request reflects \$1,208,355.13 earned to date. Retainage has been held at \$63,000, reflecting 5% of the original contract amount. Taking into account retainage and the prior payments, the net amount due is \$1,755.13. GMS recommends approved of the Pay Request in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 6 TO ITT-ADVANCED WATER TREATMENT IN THE AMOUNT OF \$1,755.13. SECONDED BY MR. VANDENBOOGAARD. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Timber Line Electric and Control Corporation has submitted Pay Request No. 9 and reflects \$341,279.10 earned to date. Taking into account retainage and the prior payments, the net amount due Timber Line for Pay Request No. 9 is \$23,305.50. GMS recommends approval in that amount.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE PAY REQUEST NO. 9 TO TIMER LINE ELECTRIC AND CONTROL CORPORATION IN THE AMOUNT OF \$23,305.50. SECONDED BY MR. VANDENBOOGAARD. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- The domestic well being installed by Kunau Drilling is 90% complete. Preliminary production estimates are in the 15-20 gallons per minute range. Inside plumbing and electrical modifications to accommodate the well and its operations are being added to the Glacier Construction contract in the form of a change order.
- The Water Pollution Control Revolving Fund Loan Request No. 24 has been prepared, and it requests a total of \$207,079.99 to be

remitted to the District to cover eligible costs for December. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #24 BACK TO THE DISTRICT IN THE AMOUNT OF \$207,079.99. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Meyer provided to the Board the attached Allocation of Costs on December's Contractor Draw Requests and a breakdown of the Project Expenditure Reimbursement Request No. 24.

ITEM 8:

⇒ Manager's Report – Kip Petersen

- Mr. Petersen apprised the Board that UPAC is working on changes to the City's policies for helping other Districts. Recommendations for those revisions will be presented at a joint meeting of UPAC and the Utility Board in March. Mr. Petersen is encouraged that their policies will be changed.
- He updated the Board on the staff's efforts over the holidays regarding untimely water leaks and main breaks. There was a bad leak on Christmas Day, and Well 13 went down on Christmas Eve Day. On Christmas Day the pump was replaced, and another leak was located and repaired over the holiday. Several staff were involved with these leaks and repairs, and Mr. Petersen wanted to express his appreciation for their efforts and stated "I'm damn proud of the guys".
- Mr. Petersen stated Fox 21 would be airing a segment regarding golf course inactivity during winter and inclement weather.

ITEM 9:

⇒ Water/Wastewater Report – Art Sintas

See attached memo; there were no comments at this time.

ITEM 10:

⇒ Golf Course

See attached memos; there were no comments at this time.

ITEM 11:

⇒ Old Business

- As discussed earlier in the evening under Mr. Culichia's Legal Report, Mr. Petersen requested the Chairman to authorize the signing of the Duncan Well contract, as amended.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE THE CHAIRMAN TO SIGN THE DUNCAN CONTRACT, AS AMENDED. SECONDED BY MR. VANDENBOOGAARD. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

ITEM 12:

⇒ New Business

- Mr. Petersen read a memo relating to the Amendment to the Personnel Policies and Procedures Manual to include two additional holidays: Martin Luther King Day and Veterans' Day. He asked the Board to amend the policies adding these two additional federal holidays.

*****MOTION*****

MR. VANDENBOOGAARD MADE A MOTION TO AMEND THE PERSONNEL POLICIES AND PROCEDURES MANUAL TO INCLUDE THE TWO ABOVE-MENTIONED FEDERAL HOLIDAYS. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Petersen read to the Board Resolution #10-01 Agenda Posting Resolution this resolution is a statutory requirement to be done at the January board meeting. Mr. Petersen asked the Board to approve this Resolution as read.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE RESOLUTION #10-01, THE AGENDA POSTING RESOLUTION. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Petersen read to the Board Resolution #10-02 Election Resolution Polling Place Election. With one typographical error noted, Mr. Petersen asked the Board to approve this Resolution, as amended.

*****MOTION*****

MR. HACKER MADE A MOTION TO APPROVE RESOLUTION #10-02, THE ELECTION RESOLUTION POLLING PLACE ELECTION, AS AMENDED. SECONDED BY MR. VANDENBOOGAARD. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

ITEM 13:

⇒ 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) LEGAL CONSULTATION. SECONDED BY MR. LOVATO. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

At this time, a ten minute break was taken.

Executive Session was entered into at 7:06 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 MR. VANDENBOOGAARD. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

The Regular Session began at 8:15 p.m.

ITEM 14:

⇒ Adjournment

There being no further business to come before the Board at this time, a motion was made for adjournment.

The Meeting adjourned at 8:17 p.m.

Kurt VandenBoogaard, Secretary

Board Members

Term Expires

Steve Hasbrouck, President	May, 2012
Dave Hacker, Vice President	May, 2010
Kurt VandenBoogaard, Secretary/Treasurer	May, 2010
Robert Lovato, Director	May, 2012
Sean Byers, Director	May, 2010