

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

November 10, 2009

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, November 10, 2009, 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	Ed Meyer
Dian Hardekopf	Pete Heidebrecht
Jim Culichia	Sara Howard
Art Sintas	Todd Laxson
Sandy DeCarolis	Len Meyer
Lily Baker	Griff Rainford

OTHER GUESTS SIGNING ATTENDANCE LOG

Assunta Manning	Ruth Morris
Jan Cederberg	Lynne Bliss
Dave and Linda Mattes	Ken and Rita Martinez
Dean Goss	Walter Herrley

ITEM 1:

The meeting was called to order by Chairman Steve Hasbrouck at 5:30 p.m. Ms. Hardekopf called roll call of the Board of Directors, all Directors were present except for Mr. Byers who had an excused absence.

ITEMS 2 AND 3:

Mr. Hasbrouck asked if there were any changes or amendments that needed to be made to the Agenda. There were none noted.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF NOVEMBER 10, 2009. SECONDED BY MR. HACKER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

ITEM 4:

The Minutes of the Regular Meeting of October 13, 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. HACKER MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF OCTOBER 13, 2009. SECONDED BY MR. LOVATO. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

The Summary of the Meeting Work Session of November 3, 2009, was reviewed. Mr. Hasbrouck asked if there were any changes that needed to be made. There were none noted.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE THE SUMMARY OF THE MEETING WORK SESSION OF NOVEMBER 3, 2009. SECONDED BY MR. HACKER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

ITEM 5:

⇒ Public Comments

Mr. Hasbrouck asked if there were any public comments at this time.

- Ms. Ruth Morris stated she was retired military and would not be receiving a cost of living adjustment (COLA) for next year. She felt she represented many customers in the District and wanted to know how customers would be able to afford an increase in their rates when they would not be getting an increase in salary. She wanted to know if the Golf Course was making enough money to "carry their own," and she was told they were. She believed there had been a constant increase in water and sewer rates, and that certain Board Members were not adhering to the Water Conservation Plan.

- Once again Mr. Mattes asked the Board how many water taps were still open in the District. Mr. Mattes has driven around the subdivisions and feels he is not given a straight answer. Mr. Sintas offered to provide a summary of the information to appease his curiosity if he would let him know exactly what he is looking for. Mr. Martinez asked if the water from developers is currently being used by the District and how short will the District be when those homes are developed and taken away from that reserve. Mr. Culichia corrected Mr. Martinez by stating the District was short of water because of the loss of Wells 1-8. A lengthy discussion ensued regarding developers, tap fees, the water shortage, and fixed incomes.

ITEM 6:

⇒ Budget Hearing – 2010 Budget

- At 6:01 p.m. Mr. Hasbrouck announced that the Public Hearing to review the 2010 Budget was in session. The Hearing was turned over to Mr. Petersen. Mr. Petersen referred to his memo that he had read and addressed to the Board in the October meeting stating a work session had been established on November 3, 2009, from 2-5:30 p.m. He presented an overview of the District's annual budget and how it was derived and highlighted on the General Fund, Water and Wastewater Enterprise Fund, Golf Course Enterprise Fund, and Park Fund. Mr. Petersen explained that the Water and Wastewater Fund budget does include the increase in water rates of 87% and wastewater at 10%.
- Ms. Bliss asked how the 87% increase would be calculated in a typical monthly bill. Overall, an average water/wastewater bill for non-irrigation months would increase about \$15.00 per month

At 7:08 p.m. Mr. Hasbrouck closed the Public Hearing and returned to the Regular Session Meeting.

ITEM 7:

⇒ Legal Report – Jim Culichia

- Legal counsel has requested a motion asking Judge Maes for relief from enforcement of the barring of Wells 14-17, and it is pending a decision at the present. If Judge Maes denies the motion, a Stay of Execution of this ruling would be filed with the Colorado Supreme Court and could take six to nine months for them to respond.

- Mr. Mientka has requested an extension of the five-year cost recovery for his two service agreements. Mr. Culichia asked the Board to approve this extension.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE MR. MIENTKA'S SERVICE AGREEMENTS EXTENSION. SECONDED BY MR. HACKER. IN A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED (4-0).

- Mr. Culichia updated the Board on the deadlines for information needed regarding the Replacement Plan.
- Mr. Culichia stated that there is a global agreement that was sent to the UBSGMD and Cherokee is waiting for a response to this agreement. There will be more discussion regarding negotiations in executive session.
- The Service Agreement for Mark Fontana's Golf Course has been compiled for the Sand Creek Well use and augmentation plan. Mr. Culichia asked the Board to authorize Mr. Petersen to negotiate the final service agreement with Mr. Fontana.

*****MOTION*****

MR. LOVATO MADE A MOTION AUTHORIZING MR. PETERSEN TO FINALIZE THE SERVICE AGREEMENT BETWEEN THE DISTRICT AND MR. FONTANA. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT WERE IN FAVOR. MOTION CARRIED (4-0).

ITEM 8:

⇒ Engineering Report - Mr. Ed Meyer

- Mr. Meyer provided to the Board a report on the wastewater project and related issues (see attached). Glacier Construction's 16th pay request has been received and reflects \$14,849,955.88. Overall retainage continues to stand at \$840,826.51. Taking both the retainage and the prior payments into account, the net amount due the Contractor is \$240,078.72. GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 16 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$240,078.72.

SECONDED BY MR. VANDENBOOGAARD. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (4-0).

- Mr. Meyer provided the Board a brief report on the developments of the WWTP, stating 100% of yard piping has been installed and has passed pressure testing. One hundred percent of the electrical conduit installations are completed and 75% of the wire has been pulled throughout several areas of the site. All light pole bases are in place. WAS vaults are 99% complete.
- SBR Basin Nos. 1 through 4's walkways and handrails are in progress, and the SBR splitter box is 99% complete. Interior finish work inside the Operations Building is in progress. Overall, the Operations Building is 85% complete. The electrical building structure is complete with 98% of the control equipment and wiring installed. The UV Building is 95% complete, and the liquid transfer station is 98% complete.
- Timber Line Electric and Control Corporation has submitted their 7th pay request and reflects \$294,723.10 earned to date. Retainage is 10% of the amount earned. Taking into account retainage and prior payments, the net amount due Timber Line is \$7,046.10 GMS recommends approval of the pay request in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 7 TO TIMBER LINE ELECTRIC IN THE AMOUNT OF \$7,046.10. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (4-0).

- The Water Pollution Control Revolving Fund Loan Request No. 22 has been prepared, and it requests a total of \$163,471.15 to be remitted to the District to cover eligible costs for October. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #22 BACK TO THE DISTRICT IN THE AMOUNT OF \$163,471.15. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. 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 October's Contractor Draw Requests and a breakdown of the

Project Expenditure Reimbursement Request. Mr. Lovato asked once again if the payments from Meridian were being received in a timely manner. Ms. DeCarolis stated that they were.

ITEM 9:

⇒ Manager's Report – Kip Petersen

- It was of unanimous consensus that a Golf Course operations work session would be scheduled on November 18, 2009, at 10 a.m. This would give the Board more time to discuss operations and procedures for the course. Mr. Petersen stated that they would also take a tour of the facility. The work session will be posted as a work session by Public Notice.

ITEM 10:

⇒ Water/Wastewater Report – Art Sintas

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

ITEM 11:

⇒ Golf Course

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

ITEM 12:

⇒ Old Business

- Ms. DeCarolis asked if the signature card for the bank account had been prepared for the new signatures. Ms. Hardekopf said it had been and signatures would be obtained at break.

ITEM 13:

⇒ New Business

- Mr. Petersen advised the Board that the appointment of a Designated Election Official (DEO) needs to be done at this meeting for the 2010 election of the Board of Directors. Ms. Hardekopf has been the DEO for prior elections and would recommend that the Board appoint Ms. Hardekopf at this time by adopting the Resolution for Certificate of Appointment and Oath.

*****MOTION*****

MR. LOVATO MADE A MOTION TO ADOPT THE CERTIFICATE OF APPOINTMENT AND OATH DESIGNATING MS. HARDEKOPF AS THE DESIGNATED ELECTION OFFICIAL. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (4-0).

- Mr. Petersen read the resolution and the Board signed the Certificate of Appointment and Oath. At this time Mr. Petersen read, and Ms. Hardekopf affirmed, the Certificate of Appointment and Oath of Designated Election Official.
- Ms. DeCarolis mentioned that in December a Public Hearing would be required once the Budget had been completely approved. Any changes should be given to her prior to the December 8th meeting.

ITEM 14:

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

*****MOTION*****

MR. LOVATO MADE A MOTION TO ENTER INTO AN EXECUTIVE SESSION CITING 24-6-402(4)(b) LEGAL CONSULTATION. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

At this time, a short break was requested, and the meeting recessed at 7:40 p.m.

Executive Session was entered into at 7:58 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. LOVATO. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

The Regular Session began at 9:58 p.m.

The Board discussed going forward with a contract to do due diligence and purchase 95 acre feet of water from the Duncan family in the Ellicott area.

*****MOTION*****

MR. HACKER MADE A MOTION TO DRAW UP THE CONTRACT OF THE PURCHASE OF 95 ACRE FEET OF DUNCAN WATER AND ALLOW MR.

HASBROUCK TO SIGN THE CONTRACT ON BEHALF OF THE CHEROKEE METROPOLITAN DISTRICT. SECONDED BY MR. VANDENBOOGAARD. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (4-0).

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 10:02 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