

**CHEROKEE METROPOLITAN DISTRICT**  
**REGULAR MEETING OF THE BOARD OF DIRECTORS**

September 8, 2009

**MINUTES**

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, September 8, 2009, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

**BOARD OF DIRECTORS PRESENT**

Steve Hasbrouck	Kurt VandenBoogaard
Sean Byers	Robert Lovato
Dave Hacker	

**OTHERS PRESENT**

Kip Petersen	Ed Meyer
Dian Hardekopf	Pete Heidebrecht
Jim Culichia	Sara Howard
Art Sintas	Todd Laxson

**OTHER GUESTS SIGNING ATTENDANCE LOG**

Lynne Bliss	Dave Mattes
Dave Mattes, Jr.	

**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.

**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. HACKER MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR MEETING OF SEPTEMBER 8, 2009. SECONDED BY MR. LOVATO. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).**

ITEM 4:

The Minutes of the Regular Meeting of August 11, 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 AUGUST 11, 2009. SECONDED BY MR. LOVATO. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).**

ITEM 5:

⇒ Public Comments

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

- Mr. Mattes recalled from last meeting he had asked the Board how many water taps were still open in the District, and he was told about a half dozen. He personally visited the developments at Jessica Heights and was told there were 400 more homes that were going to be built over the next five years, 100 homes at Elkridge, and the Claremont Ranch development was almost finished.
- Mr. Petersen stated there were lots approved for development prior to the water concerns which were precipitated a couple years ago. However, prior to late 2006, Jessica Heights had purchased water for their development as is a requirement for any developer. Mr. Mattes also stated that no individuals he spoke with at the sales offices were aware of the District's water conservation plan. Cherokee hands out all the same information to builders and developers that the customers receive and we would hope that it is passed on from there. Mr. Mattes asked Mr. Petersen about the increase in water rates proposed for the District, and Mr. Petersen responded by stating he would make a recommendation of an increase to the Board most likely at the October Board Meeting.

ITEM 6:⇒ Audit Report – Tom Sistare

- Mr. Sistare, representing Hoelting and Company, provided the Board a financial report for audit year ending December 31, 2008. He covered the financial highlights on the water and sanitation fund and Golf Course Fund (see attached). Mr. Petersen thanked Mr. Sistare for the hard work and diligence the District has received from the firm over the past year.

ITEM 7:⇒ Legal Report – Jim Culichia

- Mr. Culichia reported the Well 13 Change Case goes to trial on September 17<sup>th</sup> and 18<sup>th</sup> in Denver, stating the well was adjudicated for 1,268 acre feet, but the historical average is at 1,024 acre feet per year. Future pumping of this well may be limited to the historical average depending upon the outcome of the trial.
- Starting on September 10<sup>th</sup>, Mr. Culichia will be deposed in the malpractice suit against Mr. Susemihl, previous counsel for the District and Mr. Petersen on October 6<sup>th</sup>. The jury trial will commence March, 2010.
- The UBS has filed a response to the District's reconsideration of Wells 14-17 case. If Judge Maes does not respond to our motion to reconsider, the case is deemed denied. If Judge Maes denies the request, the District will look at filing an appeal with the Colorado Supreme Court to request a stay of execution.
- The Replacement Plan is still scheduled for trial in January, 2010.
- Drilling of a second well is being considered for the Golf Course; the current well has been pumping approximately 145 gallons per minute.

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 14<sup>th</sup> pay request has been received and reflects \$14,441,038.45. Overall

retainage is \$840,826.51 which is an increase of \$76,221.91. Taking both the retainage and the prior payments into account, the net amount due the Contractor is \$422,529.84. GMS recommends approval of the pay request in that amount.

**\*\*\*MOTION\*\*\***

**MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 14 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$422,529.84. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (5-0).**

- Mr. Meyer provided the Board a brief report on the developments of the WWTP, stating yard piping is 100% installed with 30% being scheduled for pressure testing. A total of 80% of the electrical conduit installations are completed, and Waste Activated Sludge (WAS) vaults are 90% complete. Leak testing for SBR Basin Nos. 1, 2, 3, and 4 have been completed and accepted. Interior finish work inside the Operations Building is in progress. The electrical building structure is complete with 98% of the control equipment and wiring installed. The headworks building is 95% complete and the digester building is 65% complete. The solids handling building is 75% complete and 90% of the conveyor system has been installed.
- Timber Line Electric and Control Corporation has submitted their fifth pay request and reflects a total amount earned to date of \$140,229.10. Retainage stands at 10%. Taking into account retainage and prior payments, the net amount due the Contractor is \$63,846.90. GMS recommends approval of the pay request in that amount.

**\*\*\*MOTION\*\*\***

**MR. LOVATO MADE A MOTION TO APPROVE PAY REQUEST NO. 5 TO TIMBER LINE ELECTRIC IN THE AMOUNT OF \$63,846.90. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED. (5-0).**

- The Water Pollution Control Revolving Fund Loan Request #20 has been prepared, and it requests a total of \$392,502.77 to be remitted to the District to cover eligible costs for August. GMS recommends approval of the requisition in that amount.

**\*\*\*MOTION\*\*\***

**MR. LOVATO MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #20 BACK TO THE DISTRICT IN THE AMOUNT OF \$392,502.77. SECONDED BY MR. HACKER. THERE WAS NO FURTHER DISCUSSION. 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 August's Contractor Draw Requests and a breakdown of the Project Expenditure Reimbursement Request No. 20.

ITEM 9:⇒ Manager's Report – Kip Petersen

- Mr. Petersen informed the Board that he has been invited to tour the CSU's infrastructure on September 10<sup>th</sup> and 11 so he will be out of the office both of those days.
- Starting the week of September 14<sup>th</sup>, he will be meeting with all departments to commence working on the 2010 budget. At this time he feels compelled to wait until the October Board meeting to make any water and sewer rate increase recommendations. Increased rates could possibly go into effect January, 2010.
- Mr. Petersen will be testifying on September 17<sup>th</sup> and 18<sup>th</sup> in the Well 13 Change case. He and Mr. Sintas and Ms. Hardekopf will be traveling to Denver on those days for that hearing.
- An Open House hosted by the Utility Policy Advisory Committee is scheduled for September 23. All Board members are invited to attend.
- Mr. Petersen has been appointed to a committee addressing the county's groundwater study process, and the first meeting is scheduled for September 9.

ITEM 10:⇒ Water/Wastewater Report – Art Sintas

See attached memo. Mr. Sintas also reported that, with all the rain the area has received this summer that the District looks good for the rest of the year. Eleven sod permits have been sold since September 1.

ITEM 11:

⇒ Golf Course

See attached memos.

ITEM 12:

⇒ Old Business

There was no old business to report.

ITEM 13:

⇒ New Business

There was no new business to report.

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 (5-0).**

At this time, a short break was requested so Mr. Hasbrouck could provide signatory authority on the above contracts. The meeting recessed at 6:42 p.m.

Executive Session was entered into at 6:48 p.m.

**\*\*\*MOTION\*\*\***

**MR. BYERS MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RETURN THE MEETING TO THE OPEN SESSION OF THE REGULAR MEETING. SECONDED BY MR. HACKER. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).**

The Regular Session began at 9:25 p.m.

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 9:26 p.m.

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Kurt VandenBoogaard, Secretary

Board Members

Term Expires

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

May, 2012  
May, 2010  
May, 2010  
May, 2012  
May, 2010