

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

May 10, 2011

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, May 10, 2011, at 3:30 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	Rick McKay
Dian Hardekopf	Pete Heidebrecht
Sara Howard	Todd Laxson
Griff Rainford	Griff Rainford

OTHER GUESTS SIGNING ATTENDANCE LOG

Rita Martinez	Mary Hernandez
Linda O'Riley	Ward Olson
Don Laughlin	Chloe Olson
Dave Mattes	David Mattes
Linda Keleher	Clyde Depew
Mariah Olson	Richard Chasteen
L. Borgognone	Paula Schofield
Rob Aken	Karen Heuberger
Jerry Mauer	

ITEM 1:

The meeting was called to order by President Hammers at 3:34 p.m.

ITEM 2:

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

ITEM 3 and 4:

Mr. Hammers asked if there were any changes or amendments that needed to be made to the May 10, 2011, Regular Board Meeting Agenda. Mr. Chambers stated that he would like a policy change discussion of the District's Backflow Prevention Program ordinance added as the first topic for the Executive Session.

*****MOTION*****

MR. KELEHER MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR BOARD MEETING OF MAY 10, 2011, WITH THE POLICY CHANGE DISCUSSION ADDED. SECONDED BY MR. BEAHAN. ALL BOARD MEMBERS PRESENT IN FAVOR. 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 AND THE TOPICS LISTED ON THE MAY 10, 2011, AGENDA. SECONDED BY MR. KELEHER. ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

Executive Session was entered into at 3:38 p.m.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO COME OUT OF THE EXECUTIVE SESSION AND ENTER BACK INTO THE REGULAR OPEN SESSION OF THE MAY 10, 2011, MEETING. SECONDED BY MR. KELEHER. ALL BOARD MEMBERS IN FAVOR. MOTION CARRIED (5-0).

Regular Session resumed at 5:30 p.m. and a short break was taken. After the break, the Regular Session resumed at 5:41 p.m.

ITEM 6:⇒ Approval of Minutes

The Minutes of the Regular Board Meeting of April 12, 2011, were reviewed. Mr. Hammers asked if there were any changes that needed to be made to the Minutes. Under Public Comments on page 5, Ms. Cederberg wanted to clarify on Ms. Hernandez' behalf that Ms. Hernandez questioned Mr. Hasbrouck regarding the previous Board's legal counsel misleading the public in its legal battles facing the District, and in particular with respect to the late filing on Well No. 17, later ruled abandoned by the District and the Supreme Court; and when was notice of the "Recharge" issue in the '99 stipulation disclosed to the Public and the Board.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO AMEND THE MINUTES OF THE REGULAR BOARD MEETING OF APRIL 12, 2011, AS NOTED ABOVE. SECONDED BY MR. BEAHAN. MR. KELEHER-YES. MS. CEDERBERG-YES. MR. BEAHAN-YES. MR. HASBROUCK-ABSTAIN. MR. HAMMERS-YES. MOTION CARRIED (4-1-0).

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR BOARD MEETING OF APRIL 12, 2011, AS AMENDED. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The Minutes of the Special Meeting of May 3, 2011, were reviewed. Mr. Hammers asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE MINUTES OF THE SPECIAL MEETING OF MAY 3, 2011. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 7:⇒ Legal Report – Kevin Donovan

- The County Court Order having the District pay \$5,000 to settle the recall election legal case has been signed. Mr. Donovan believed this action was a substantial savings to the District.

- Mr. Donovan stated that the Felt, Monson and Culichia case is still moving along no changes to report at this time. The District still has not heard back on the motion to clarify the ruling by the Supreme Court as to the use of wells 14-17. So that is still up in the air; we are hoping to hear something any day.
- Mr. Donovan touched on the bankruptcy case referring to a portion of the rush water case. Mr. Donovan disclosed that he worked on the water diligence in the past to keep the rights as municipal. When asked how long ago that was, Mr. Donovan stated it was roughly two years ago. The District was asked if we were still interested in this water and Mr. Donovan reported that we were so long as municipal status and augmentation priority remain in place.

ITEM 8:

⇒ Engineering Report

- There was not an Engineering Report at this time. However, Mr. Chambers advised the Board that RE Monks' check for their construction on Basin #1 has been signed but had not yet been sent out and that Simbeck had been paid for the liner work on basin #1. In total, the engineering, geo science, permitting, and construction required to rehabilitate infiltration Basin no. 1 so that it would perform as needed, exceeded \$300,000.00.

ITEM 9:

⇒ Public Comments

- A question was raised as to how many Board Members resided in the District. All Board Members but Mr. Hammers reside in the District; however, Mr. Hammers is the owner of several commercial properties within the District and had a vested interest in the health and success of the District.
- The shortage of water continues to be a public concern. Mr. Beahan stated several options were being reviewed in Executive Sessions; and hopefully with the Board diligently working on those options, in the next few months they will be able to bring to the table several water plans.
- Accountability of decisions made by the Board was questioned. Mr. Beahan stated the District held the Board accountable to make the best decisions they could. That is also why the District pays it's manager to be involved in water and contracts with water engineers and water counsel.

- There was a request for more education and workshops regarding water conservation and xeriscaping options. The District will again be involved in the Water Returns program and will be demonstrating xeriscape on its Hathaway median.
- A question was raised concerning Viewpoint Estates' outstanding bill and how much money they owed to the District. The bill remains in dispute because the subdivision owns the water storage space in Cherokee's tank at Ellicott.
- A status update was requested regarding the litigation of the improper design and construction of the "Rapid Infiltration Basins" (RIBS)—claims pending 3rd party engineer review of design/construction process.
- The status of lawsuits on the website was questioned, and Mr. Chambers stated the website should be updated as events occur and apologized if the Culichia case update was overlooked and not yet placed on the website. Both Mr. Chambers and Mr. Hammers stated they would make this update a priority. There was also concern that rates are increased because of continuous increases in attorneys' fees. Mr. Donovan stated that he allows for one meeting a month that he does not charge the District for attending. After review of the web page, it was determined that the malpractice case had been previously posted. An update on that topic will be given in June.
- Mr. Laughlin wanted to know if he was going to receive a response to his letter regarding the interpretation of the Colorado State Statutes for Special Districts. Mr. Chambers stated that, based on legal counsels review, the District is following the statutes properly and that there may be an interpretation misunderstanding. Mr. Chambers invited Mr. Laughlin to sit down and discuss and that a letter of explanation/opinion was forthcoming. The issue would be reviewed in the September Budget process. Mr. Laughlin stated he will be filing a complaint against the Cherokee Metro District with the Attorney General's Office. Mr. Chambers invited Mr. Laughlin to address the issue together with the Attorney General's Office.
- The condition of the playground area in the Pronghorn Meadows subdivision was addressed, and Cherokee and its new parks staff would ensure that conditions are safe.

ITEM 10:⇒ Manager's Report – Sean Chambers

- Mr. Chambers provided to the Board his Manager's Report (Report is on file at the office). A few of his items were previously addressed in Mr. Donovan's Legal Report.
- A follow up meeting is scheduled June 7th regarding the "recharge vs. replacement" litigation between the UBS and Cherokee and Meridian Metro, as agreed to by the Board of Directors.
- Mr. Chambers requested consensus from the Board to proceed with core sampling, geo-tech work, and logging to ensure adequate percolation performance at RIB nos. 2-10 basins at the WWTP. This is the only facility permitted to receive and discharge the District's treated wastewater.
- A Phase II Groundwater Quality Study report which would take a broad look at baseline data by sampling wells in the UBS Basin is currently being undertaken by the El Paso County Groundwater Quality Study Group, county representatives and the USGS. The next meeting will be June 13th at the Regional Building Department—critical work in protecting long term water quality of District's Upper Black source water.
- The Goss well has been pumping to the District's expectations. Mr. Chambers provided two USB Board Directors a tour of the pump test infrastructure and discussed the metering, accounting and logistics.
- Redistricting of UBS will be completed by August, 2011, a process Cherokee is tracking to ensure an equitable process and District division.
- The quarterly newsletter was distributed in April's monthly billing statements and a special mailing was also mailed to the residents of the Springs Mobile Home Park. Because of the numerous multi unit complexes within the District, it was suggested to drop off the newsletters at the complexes for individual distribution to their residents.

ITEM 11:⇒ Water/Wastewater Report – Art Sintas

- Although Mr. Sintas was absent, the Board was provided an update on the water demands for April (memo on file in office). In the report,

there was a breakdown of the District's total amount of water available and consumed so far for the calendar year. Mr. Chambers answered questions on supply planning.

- Mr. Beahan wanted to go on record that he believed commercial properties should not be given any more relief than residential accounts when it came to being responsible for extremely high watering bills. Payment plans could always be an option in leak cases.

ITEM 12:

⇒ Golf Course – Todd Laxson and Griff Rainford

- Memos regarding the Pro Shop and Golf Course Maintenance were discussed (memos on file in office). Mr. Laxson stated approximately \$1,600 in damages were incurred when three golf cars were stolen from the course on Easter Sunday. The case is in the hands of the El Paso County Sheriff's office, and they are awaiting further instructions from them.
- Mr. Laxson stated some revenue has been generated from the green fee passes implemented this year. Mr. Chambers would like Hoelting and Co. to do an audit to book the money earned over the past four months at the Course to see how that process can be successful.
- Ms. Cederberg thanked Mr. Laxson for his great work and contribution to the Golf Course.
- In regard to the security at the Golf Course, Mr. Beahan addressed the concerns of the security and safety of the Board Members, particularly at public meetings. The need to protect, and the costs for this service, was discussed.

ITEM 13:

⇒ Old Business

ITEM 14:

⇒ New Business

- Ms. Cederberg commended employees Mr. McKay and Mr. Meyer for their excellent skills and knowledge in resolving pressure regulator problems between her and her neighbor's homes.

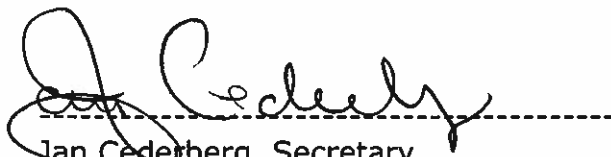
- Mr. Hasbrouck suggested a meeting be scheduled for to allow for a level playing ground for both the GP water group and The Horse Creek Water group to once again present proposals for additional water to the District. It was Mr. Donovan’s concern that the District’s Letter of Intent to Mr. Kessel with the Horse Creek Water could be used to sell something Mr. Kessel doesn’t own and could jeopardize the reputation and legal standing of the District. A long discussion ensued as to allowing for letter of intents and having more presentations for water negotiations/purchases. It was the opinion of the majority of Board Members to not give Mr. Kessel another letter or an opportunity to address the Board as he has not answered any of the questions that were given to him in the original letter of notice and request for details and proof of control over water rights. Mr. Mac Dougall, representing Little Horse Creek Water Users Association has sent to the District a letter noticing the Board that Kessel nor anyone else speaks for or represents them or their water. See attached.
- Comments were received from the public as to the obvious animosity among the Board of Directors and the way some members talk down to others. It is not an appropriate format for the public to witness.

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 8:22 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