

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

July 12, 2011

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, July 12, 2011 at 3:30 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 Hardekopf	Todd Laxson
Kevin Donovan	Sara Howard
Marti Whitmore	Pete Heidebrecht

OTHER GUESTS SIGNING ATTENDANCE LOG

Mary Hernandez	Linda O'Riley
Don Laughlin	Harry R.
Linda Keleher	Tom S.
Chloe Olson	Ward Olson

ITEMS 1 and 2:

The meeting was called to order by President Dave Hammers at 3:34 p.m. Ms. Hardekopf called roll of the Board of Directors, 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 July 12, 2011, Regular Board Meeting Agenda. Ms. Cederberg asked if there could once again be 'Board Comments' added as 9A to the evenings agenda. Ms. Hardekopf asked if the Board would prefer to have a 'Board Comments' item added for all future regular board meetings.

The consensus of the Board was to place the item on future agendas but place after the public comments item. Mr. Hammers stated that he would like to discuss the information gathered regarding a stenographer for future board meetings under old business. Mr. Hammers asked if any of the Board had concerns with the Executive Session topics; if so the Board should talk about it before the approval of the agenda.

Mr. Keleher stated that he believed the last three topics should be held in open session as did Mr. Hasbrouck. Mr. Beahan asked for more clarification on the land acquisition. Mr. Chambers stated that more land is likely needed near the replacement basins for monitoring wells, however, wished to have the details of the land negotiations done in executive session. Mr. Keleher asked if this was some of the same farm credit owned land that Mr. Goss had put a bid with. Mr. Chambers stated this was a different area. It was determined this first topic would be done in executive session and the Board could then go back into public session to discuss the other issues that should go back into executive session.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO APPROVE THE AGENDA OF THE REGULAR BOARD MEETING OF JULY 12, 2011, WITH THE RECOMMENDED CHANGES STATED ABOVE. SECONDED BY MR. KELEHER. 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)(E) NEGOTIATION DISCUSSIONS WITH MERIDIAN RANCH/GTL, REGARDING RECENT RULING ON 98CW80. SECONDED BY MR. KELEHER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The Executive Session began at 3:52 p.m.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RESUME THE PUBLIC SESSION OF THE REGULAR MEETING. SECONDED BY MR. KELEHER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The public session of the Regular meeting began at 5:25 p.m. with a short break taken, the public session resumed at 5:36 p.m.

ITEM 6:

⇒ Public Session Report on Executive Session – Dave Hammers

Mr. Hammers stated that discussion with Meridian Service District regarding the basins, the District's IGA, and the rulings were discussed. The other items under the Executive Session agenda item were not discussed. Mr. Chambers made note that the documents pertaining to those agenda items were provided in the Board's packet of information.

Mr. Chambers stated that basin #1 that was re-constructed, is currently not perking well, likely due to algae forming in the pond and no cleaning over the past 6 months. Mr. Chambers asked Mr. Heidebrecht to report on the basins. Mr. Heidebrecht proceeded to provide an overview and status of the slow rate of percolation in each of the basins stating the basins were designed to percolate 4.8 million gallons; but at this point in time, they were at one-fourth capacity (status report on file in office). Mr. Chambers stated that, because of poor design and construction, the basins were not efficiently percolating, which could result in basin overflow through the winter months and would need action with a significant cost. Mr. Heidebrecht did state Basin #3 was core tested, and the core sand and gravel was exceptionally clean. Mr. Chambers was planning a meeting in the oncoming week with Mr. Scott Medford to discuss percolation concerns and explained how staff would do preliminary work on some of the basins. Mr. Donovan suggested an independent engineer, such as Mr. Bobby Ingles, be there to oversee the reconstruction of the basins while staff is working as he can document and take pictures. Ms. Cederberg asked if all parties have been cooperative in acquiring the needed information. Mr. Donovan advised the Board that Velocity was on notice and has been cooperative with the District's legal counsel; however, he had sent an email to Mr. Meyer regarding the insurance bonds but had not heard anything back. It was mentioned the two-year expressed warranty had expired in May, 2010, before Basin #1 started to fill. and Mr. Hammers stated that if the insurance bond documents were unable to be located then maybe Mr. Donovan should take steps to legally acquire a copy of the bond from the Engineers and stated maybe filing notices to all involved. Mr. Donovan believed a complaint could be prepared by the end of August, but no legal action against the engineers could be taken at this time.

Additional counsel to handle the litigation of the basins was discussed. Mr. Donovan stated he felt very comfortable exercising contract litigation and said construction experts such as Mr. Ingles would be key witnesses in the case. Mr. Hammers requested Mr. Donovan provide a summarization of costs and expenses involving legal litigation at the August Regular Board Meeting

and also provide an opinion as to whether or not a contingency lawyer and/or outside firm would be advantageous for the District.

At this point, Mr. Hammers suggested there be another meeting to discuss the remaining items under the Executive Session agenda. However, Ms. Whitmore did state she would prefer to have two additional weeks to review and evaluate the water supply strategy. It was recommended by Mr. Chambers to have a brief Executive Session to determine the Board's response regarding a purchase decision of the Goss Well, as Mr. Medford needed additional time to complete a thorough analysis of the Goss Well. Suggested dates in the last week of July 2011.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO ALLOW LEGAL STAFF AND THE ENGINEER TO FIRST EVALUATE RFP's, THEN SCHEDULE A SPECIAL MEETING WITH A SHORT EXECUTIVE SESSION AND CONCLUDE THE MEETING WITH A PUBLIC SESSION FOR DISCUSSION OF SAME. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

It was the general consensus of the Board to schedule the above meeting on July 27th beginning at 11:00 a.m. and begin the Public Session at 5:30 p.m.

Ms. Whitmore suggested she and Mr. Medford make the necessary phone calls before the meeting to resolve any legal hurdles by first asking specific questions to the applicants in determining if the RFP's, in fact, have water rights to sell.

Mr. Hammers asked Mr. Chambers to identify, for the record, the RFP's. They were: Two Rivers Water, HBC Ventures LLC, Dan Farmer-Farmer Family, Deepwater Project Partners LLC, Greenland Basin Pipeline LLC, Colorado Water Resources Inc., & Hwy 86-Elbert County Regional Metro District.

ITEM 7:

⇒ Approval of Minutes

The Minutes of the Regular Board Meeting of June 14, 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 REGULAR BOARD MEETING OF JUNE 14, 2011 AS WRITTEN. SECONDED BY MR. KELEHER. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The Minutes of the Special Meeting of June 21, 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 JUNE 21, 2011 AS WRITTEN. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 8:

⇒ Legal Report – Kevin Donovan, Marti Whitmore

Mr. Donovan provided the Board a legal report summarizing the District's ongoing legal developments (report on file in office). The Cimarron/Cree Townhomes litigation is scheduled for a one-day jury trial on July 25. Mr. Art Sintas and Mr. James Eddy, a water meter expert, are expected to appear as witnesses.

Ms. Whitmore provided an overview of the ruling of 05CW6, Division 2 Water Court, to the Board (Order on file in office). It was her recommendation that a Notice of Appeal be filed with the Colorado Supreme Court seeking an interpretation of their recent ruling. A question was raised from the audience as to whether or not a judge could or should ever recuse himself from a court-ordered decision. The short answer being, only if there is a conflict of interest.

*****MOTION*****

MS. CEDERBERG MADE A MOTION APPROVING MS. WHITMORE TO FILE AN APPEAL TO THE COLORADO SUPREME COURT REGARDING THE RULING OF 05CW6. SECONDED BY MR. BEAHAN. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

Ms. Whitmore reported to the Board a few Augmentation/SWSP water accounting concerns with the World Golf Course augmentation flow.

Mr. Hammers requested the Golf Course agenda item to be discussed at this time. Discussion ensued as to whether or not an expansion at the Pro Shop/kitchen facility was budgetarily feasible.

ITEM 9:

⇒ Engineering Report

The staff report on RIB performance was discussed earlier in the evening's meeting.

ITEM 9a:

⇒ Board Comments

Ms. Cederberg directed a written accusation towards Mr. Hasbrouck and requested a copy of her statement to be included in the Minutes (letter on file in office.)

Mr. Hammers requested the Cherokee website be updated showing his phone number and email address. Ms. Howard stated she would get that information to Ms. Hardekopf so that she could get it posted as soon as possible.

Mr. Beahan discussed accountability of the Board of Directors in public meetings and wanted to see if a form could be created and sent to each Board member confirming email addresses, phone numbers and any other updates necessary for changes.

ITEM 10:

⇒ Public Comments

There were concerns that Texas oil companies were drilling in Colorado and possibly fracking and affecting the District's water supply.

Homeowners' associations being subjected to high irrigation bills was also a concern that was discussed. Manager and Board committed to review with the rate study and in the 2011 revised budget process.

ITEM 11:

⇒ Manager's Report – Mr. Sean Chambers

Mr. Chambers advised the Board the 1999 series bonds would be paid in full from the District's capital reserve account on July 25. The early payoff will save almost \$200,000 in interest in 2011 and \$760,000 over the anticipated

life of the bonds. The payoff will consist of a \$959,765.33 payment out of the bond dedicated reserve and \$2,688,653.43 from the regular Capital Account managed through Colorado Trust.

Mr. Chambers requested the Board support a Joint Public Meeting between the Cherokee's Board of Directors and the UBS's Board of Directors on July 18, 2011, time yet to be determined.

*****MOTION*****

MR. BEAHAN MADE A MOTION GRANTING MR. CHAMBERS TO POST A NOTICE OF A JOINT MEETING BETWEEN CHEROKEE AND UBS ON JULY 18, 2011, TIME TO BE DETERMINED. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

In conjunction with the El Paso County Environmental Health Department, the District will be sponsoring a community clean-up day on Saturday, September 17th, where disposal of household waste, chemicals, tires, and recycling will be available to only Cherokee customers and at no charge. Customers should contact the District for a voucher and further information.

ITEM 12:

⇒ Water/Wastewater Report – Art Sintas

Mr. Sintas apprised the Board on water demands for the month of June 2011 compared to June 2010 and June 2009 (report on file in office). He also handed out a detailed and very informative graph charting the District's consumption under Stage 2 vs. Stage 1 water restrictions, under the conservation plan. The graph also depicted moisture precipitation received in the last month (graph on file in office). Summary; 3 days per week doesn't use substantially more water, but eliminates peaks and valleys in demand & production.

ITEM 13:

⇒ Golf Course

Golf Course items were discussed earlier in the evening's meeting.

ITEM 14:

⇒ Old Business

Setting of a special meeting to further consider water supply planning and proposals submitted under RFP were discussed earlier in the evening's meeting.

A stenographer to take the meetings' minutes was discussed along with the option of using a Dictaphone/transcribing machine or a computerized and downloadable dictation device.

ITEM 15:

⇒ New Business

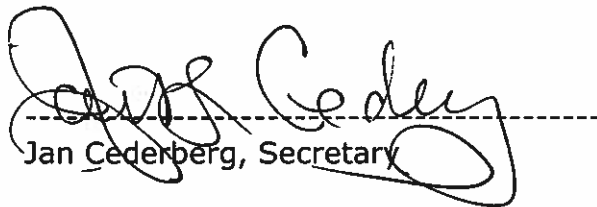
There was no new business.

ITEM 16:

⇒ Adjournment

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

The Meeting adjourned at 8:37 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