

CHEROKEE METROPOLITAN DISTRICT
REGULAR MEETING OF THE BOARD OF DIRECTORS

November 9, 2010

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, November 9, 2010, at 3:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

BOARD OF DIRECTORS PRESENT

Robert Lovato	Jan Cederberg
Steve Hasbrouck	William Beahan
Dave Hammers	

OTHERS PRESENT

Sean Chambers	Ed Meyer
Art Sintas	Griff Rainford
Kevin Donovan	Todd Laxson
Dian Hardekopf	Len Meyer
Sandy DeCarolis	Lily Baker
Sara Howard	Pete Heidebrecht
Jon Waker	

OTHER GUESTS SIGNING ATTENDANCE LOG

Mary Hernandez	Gayle Jones
Dave Mattes	David Mattes
Linda O'Riley	Larry Keleher
Ken & Rita Martinez	Walter Bell
Assunta Manning	Beverly Schafer
Lane & Cheryl Vifinkle	Jon Maroon
Lynne Bliss	Frank Gonzalez
Chloe Olson	

ITEM 1:

The meeting was called to order by Chairman Robert Lovato at 3:30p.m. Mr. Lovato asked Ms. Howard to do the roll call of the Board of Directors, all Directors were present including Mr. Hasbrouck who was available through teleconferencing.

ITEMS 2 and 3:

Mr. Lovato asked if there were any changes or amendments that needed to be made to the November 9th Regular Board Meeting Agenda. A request was made to place #7 Legal Report above #6 Public Comments and remove Pay Request #1 – Frazee Construction, from #8 Engineering Report.

*****MOTION*****

MR. HAMMERS MADE A MOTION TO APPROVE THE AGENDA, AS AMENDED. SECONDED BY MR. BEAHAN. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

ITEM 4:

⇒ 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. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS APPROVED. MOTION CARRIED (5-0).

Executive Session was entered into at 3:32 p.m.

*****MOTION*****

MR. HAMMERS MADE A MOTION TO COME OUT OF EXECUTIVE SESSION AND RETURN THE MEETING TO THE OPEN SESSION OF THE REGULAR MEETING. SECONDED BY MR. BEAHAN. ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

A five minute break was taken at 5:43 p.m. before Regular Session resumed.

Regular Session resumed at 5:55 p.m.

The Settlement Agreement was discussed in Executive Session and it was the consensus of the Board to continue to move forward with the Agreement.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE THE CHANGES DISCUSSED WITHIN THE EXECUTIVE SESSION FOR THE SETTLEMENT BETWEEN THE DISTRICT AND UBSGMD. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

ITEM 5:

The Minutes of the Regular Meeting of October 12, 2010, were reviewed. Mr. Lovato asked if there were any changes that needed to be made to the Minutes. There were none noted.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF OCTOBER 12, 2010. SECONDED BY MR. BEAHAN. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The Minutes of the Work Session Summary of October 26, 2010, were reviewed. Mr. Lovato asked if there were any changes that needed to be made to the Summary. There were none noted.

*****MOTION*****

MR. HAMMERS MADE A MOTION TO APPROVE THE WORK SESSION SUMMARY OF OCTOBER 26, 2010. SECONDED BY MS. CEDERBERG. MR. HASBROUCK-ABSTAIN. MS. CEDERBERG-YES. MR. HAMMERS-YES. MR. BEAHAN-YES. MR. LOVATO-YES. MOTION CARRIED (4-1-0).

ITEM 7:

⇒ Legal Report – Kevin Donovan and Marti Whitmore

- It was suggested to the Board that a third party be hired and brought in to certify outside claims regarding the pending lawsuit of Monson, Felt, and Culichia.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO BRING IN A THIRD PARTY TO CERTIFY OUTSIDE CLAIMS REGARDING THE MONSON, FELT, AND CULICHIA LAWSUIT. SECONDED BY MR. HAMMERS. MR. HASBROUCK-ABSTAIN. MS. CEDERBERG-YES. MR. HAMMERS-YES. MR. BEAHAN-YES. MR. LOVATO-YES. MOTION CARRIED (4-1-0).

- Mr. Donovan thought it was in the best interest of the District to intervene in the recall election lawsuit against the County to acquire a better understanding of the County's recall election procedures, and asked for the Board's permission to do so until the costs incurred to the District were determined. Mr. Lovato recused himself at this point. Mr. Hasbrouck felt, if the District just communicated with the County, legal costs could possibly be avoided, and Mr. Donovan responded by stating it was the County who hired outside counsel to protect their interests in the recall election.

*****MOTION*****

MR. HAMMERS MADE A MOTION TO ALLOW LEGAL COUNSEL TO BECOME AN ACTIVE PARTICIPANT IN THE RECALL ELECTION LAWSUIT AGAINST THE COUNTY. SECONDED BY MS. CEDERBERG. MR. HASBROUCK-ABSTAIN. MS. CEDERBERG-YES. MR. HAMMERS-YES. MR. BEAHAN-YES. MR. LOVATO-RECUSE. MOTION CARRIED (3-1-0).

- Mr. Donovan stated he is trying to finish up the contract process requirements of the Duncan well, next step being completion of legal action.

ITEM 6:⇒ Public Comments

- Ms. Mary Hernandez asked as to when the community would be able to know the contents of the Settlement Agreement, and Mr. Lovato stated the contract was still under negotiation. She voiced her discernment with Mr. Hasbrouck abstaining from the Board's vote regarding the Monson, Felt and Culichia lawsuit. Mr. Donovan stated he had a right to abstain as Mr. Hasbrouck shouldn't have to make a public response.

- Ms. Assunta Manning requested the names of the finalists for the position of the General Manager and was told that was not public information. She asked if Mr. Petersen was an applicant and was told this was not public information because the applicants' identities and interests needed to be protected.
- Ms. Gayle Jones felt the community was denied information in the announcement of the short list process. Ms. Cederberg stated she was aware of some who were upset about the decision, but she said she would stand behind her decision. Her short list included one individual who could talk the talk. Ms. Jones said she was arguing the process, not the decision, as there was not an opportunity for public discussion.
- Mr. Jon Maroon asked if there was a posting of the qualifications posted at the Cherokee office for the General Manager position, and he was told it was.
- Mr. Dave Mattes welcomed Mr. Chambers aboard and was glad to see him working in acquiring more water outside of the UBS Basin.
- Mr. Ken Martinez asked where the responsibility of the District laid with the recall process, and Mr. Donovan stated the need to protect the District from the legal costs. He also stated that the County hired an outside law firm from Denver to represent Mr. Balink who was sued by the Board Member being recalled. If the plaintiff wins, the District could be responsible to pay up to \$10,000 in the plaintiff's costs for the recall.
- Mr. Keleher asked for clarification on who "they" were in an earlier discussion on the County and the recall election. Mr. Donovan stated that the "they" meant the County and that they are the ones that hired an Attorney from Denver to defend Mr. Balink in the lawsuit filed against the DEO for the recall election and they, the county, are asking Cherokee to pay for that defense.

ITEM 8:

⇒ Engineering Report - Ed Meyer

- Mr. Meyer provided a report on the wastewater project and related issues (see attached). Glacier Construction's 27th pay request has been received and reflects \$16,851,612.30 earned to date. The remaining work has a construction value of \$180,078.80. GMS recommends that the retainage for the work that has been completed be decreased to

zero. Taking the release of retainage (\$151,584.56) and the prior payments into account, the net amount due Glacier Construction for new work on this pay request is \$20,888.60 that amount, combined with the retainage, totals \$172,473.16. GMS recommends approval of Pay Request No. 27 in that amount. Payment will be made on or after November 29, 2010.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO APPROVE PAY REQUEST NO. 27 TO GLACIER CONSTRUCTION IN THE AMOUNT OF \$172,473.16 WITH PAYMENT TO BE MADE ON OR AFTER NOVEMBER 29, 2010. SECONDED BY MR. HASBROUCK. THERE WAS NO FURTHER DISCUSSION. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Meyer provided an update on the WWTP Lift Stations, SCADA system, and Marksheffel Road Water Transmission Line Replacement.
- The Water Pollution Control Revolving Fund Loan Request No. 31 has been prepared, and it requests a total of \$49,999.97 to be remitted to the District to cover eligible costs for October. GMS recommends approval of the requisition in that amount.

*****MOTION*****

MR. BEAHAN MADE A MOTION TO AUTHORIZE REIMBURSEMENT OF WPCRF REQUISITION #31 BACK TO THE DISTRICT IN THE AMOUNT OF \$49,999.97. SECONDED BY MS. CEDERBERG. WITH A ROLL CALL VOTE, ALL BOARD MEMBERS PRESENT APPROVED. MOTION CARRIED (5-0).

- Mr. Chambers announced the draft 2011 budget was developed over the last 3 months with significant input from staff. During the upcoming Budget Hearing, the Board would review four budgets: Two budget options would not show the balance of the 1998 Revenue Bond being paid, and two budget options would show the balance of the 1998 Revenue Bond being paid.

ITEM 9:

⇒ Budget Hearing: 2011 Budget

*****MOTION*****

MR. HAMMERS MADE A MOTION TO MOVE THE REGULAR BOARD MEETING INTO A PUBLIC BUDGET HEARING TO REVIEW THE 2011 BUDGET. SECONDED BY MS. CEDERBERG. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

- Mr. Chambers stated that four different budgets, driven by the cost of water purchased from the City, were developed and up for review by the Board. There was extensive discussion regarding the payment of the outstanding 1998 Revenue Bonds and the increase proposed of the availability fee from \$8.21 per month to roughly \$14.00 per month proposed and sewer rate fee increase imposed for 2011.
- There was discussion of the bond coverage requirements under 2006 Water & Power Authority.
- The Golf Course budget was discussed including the possibility of obtaining a small loan for capital improvements, and Mr. Lovato encouraged staff to look into that option. Mr. Sintas' capital request would need to be added into the 2011 Budget.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO COME OUT OF THE 2011 PUBLIC BUDGET HEARING AND RETURN TO THE REGULAR BOARD MEETING. SECONDED BY MR. HASBROUCK. ALL BOARD MEMBERS PRESENT IN FAVOR. MOTION CARRIED (5-0).

The Regular Board Meeting resumed at 7:54 p.m.

*****MOTION*****

MS. CEDERBERG MADE A MOTION TO PAY THE BALANCE OF THE 1998 REVENUE BOND IN THE AMOUNT OF \$4,226,269.70. THIS AMOUNT MUST BE PAID BY DECEMBER 1. SECONDED BY MR. BEAHAN. MR. HASBROUCK-NO. MS. CEDERBERG-YES. MR. HAMMERS-YES. MR. BEAHAN-YES. MR. LOVATO-YES. MOTION CARRIED (4-1).

At this time, Mr. Lovato asked that each Board member be polled as to which budget, 1-4, they would like to have the staff move forward on and present to the Board during the December Budget Hearing; Mr. Hasbrouck-Abstain,

Ms. Cederberg- Budget #4, Mr. Hammers-Budget #4, Mr. Beahan – Budget #4, and Mr. Lovato – Budget #4.

Mr. Hasbrouck telephonically dismissed himself from the meeting at 8:05 p.m.

ITEM 10:

⇒ Manager's Report – Sean Chambers

- Mr. Chambers handed out a memo to the Board (see attached) and provided an update of the operations and customer service, long range planning, pending litigation and an update on the Golf Course.
- He stated Mr. Meyer would be collecting information and data from staff to put together a comprehensive rate study for the District.
- During Mr. Chambers' report, Mr. Lovato excused himself and turned the meeting over to Ms. Cederberg who asked that Mr. Hammers, be the one to run the meeting at this time.

ITEM 11:

⇒ Wastewater Report – Art Sintas

- Mr. Sintas apprised the Board on water demands for October, 2010, compared to October, 2009 (see attached report).

ITEM 12:

⇒ Golf Course

- See attached memos. Mr. Laxson stated some changes will be made to employee policies regarding part-time staff and full-time staff. Mr. Beahan would like to sit down with Mr. Laxson to discuss Golf Course policies involving Board Members since he was involved in the creation of the original policy.

ITEM 13:

⇒ Old Business

- Mr. Donovan will be finishing Mr. Chambers' contract and providing a copy to him so both Mr. Chambers and his lawyer can review. Mr. Chambers' contract will become effective November 18th if approved.

ITEM 14:

⇒ New Business

- There was no New Business.

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 8:50 p.m.

Jan Cederberg, Secretary

Board Members

Term Expires

Robert Lovato, President	May, 2012
Steve Hasbrouck, Vice President	May, 2012
Jan Cederberg, Secretary/Treasurer	May, 2014
Dave Hammers, Director	May, 2014
William Beahan, Director	May, 2014