

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

October 17, 2023

MINUTES

The Regular Meeting of the Board of Directors of the Cherokee Metropolitan District was held on Tuesday, October 17, 2023, at 5:30 p.m. at 6250 Palmer Park Blvd., Colorado Springs, Colorado.

Board of Directors Present: Michelle Marie Kinney, Tracey Ferguson, Steve Hasbrouck, Linda L. Keleher

CMD Staff Present: Amy Lathen, Tyler Dunich, Connie Hughes, Kevin Brown, Sara Howard, Jeff Munger, Joshua Watkins, Cathy Fromm, Shawn Puente, Julie Wells

Others Present: Paul Rufien, Dennis Daniels, Jeremy Atkinson, Bob Lathen, Nathaniel Williams, Rene Sintas, Dan Wall, Elke Drayton, Dave Mattes; Virtual: Gabe Racz, CH, Timothy Bouma, Mark Valentine, Kip, Derek Gore, Connie Hughes, Christian

ITEM 1:     Call to Order

The meeting was called to order by Director Kinney at 5:30 p.m. Those in attendance were asked to stand and recite the Pledge of Allegiance. Director Kinney asked for a roll call from the Directors. All were present except for Director Wall who had submitted his resignation effective October 6. There were no Directors' qualifications or disclosures.

ITEM 2:     Review and Approval of the Agenda

The Agenda was reviewed for any changes. It was suggested to move the audit report immediately after Item 2, and remove Item 7-L, Distribution Pipeline Phasing Presentation to be later discussed at a Special Meeting or the next Regular Board Meeting.

**MOTION:   DIRECTOR HASBROUCK MOVED, SECONDED BY DIRECTOR KELEHER, TO APPROVE THE OCTOBER 17, 2023 AGENDA AS AMENDED. ALL IN FAVOR. MOTION PASSED BY GENERAL CONSENT.**

Steve Hochstetter, from Stockman Kast Ryan & Company, introduced himself to the Board and provided the basic financial statements and supplemental information with the independent auditor's report for the year ending December 31, 2022.

ITEM 3: Minutes

The Minutes for the August 15, 2023 Regular Meeting, August 30, 2023 Work Session, and October 2, 2023 Public Hearing were brought before the Board. Mrs. Lathen stated corrections to the Minutes can be made as needed; however, any amendments needed to be approved by the Board. Director Kinney identified a few requested changes, which she believed were important corrections, and those were discussed for clarification.

**MOTION: DIRECTOR KINNEY MOVED, SECONDED BY DIRECTOR FERGERSON, TO HAVE THE AUGUST 15, 2023 MINUTES OF THE REGULAR BOARD MEETING REDRAFTED WITH THE SUGGESTED CORRECTIONS AND REVIEWED AT THE NEXT MEETING. TRACEY FERGERSON-YES. STEVE HASBROUCK-NO. LINDA KELEHER-NO. MICHELLE MARIE KINNEY-YES. MOTION FAILED (2-2).**

**MOTION: DIRECTOR HASBROUCK MOVED, SECONDED BY DIRECTOR KELEHER, TO APPROVE THE AUGUST 15, 2023 MINUTES OF THE REGULAR BOARD MEETING. TRACY FERGERSON-NO. STEVE HASBROUCK-YES. LINDA KELEHER-YES. MICHELLE MARIE KINNEY-NO. MOTION FAILED (2-2).**

**MOTION: DIRECTOR HASBROUCK MOVED, SECONDED BY DIRECTOR KELEHER, TO APPROVE THE AUGUST 30, 2023 WORK SESSION MINUTES. TRACEY FERGERSON-YES. STEVE HASBROUCK-YES. LINDA KELEHER-YES. MICHELLE MARIE KINNEY-YES. MOTION PASSED (4-0).**

**MOTION: DIRECTOR HASBROUCK MOVED, SECONDED BY DIRECTOR KELEHER, TO APPROVE THE OCTOBER 2, 2023 PUBLIC HEARING MINUTES. ALL IN FAVOR. MOTION PASSED BY GENERAL CONSENT.**

ITEM 4: Consent Agenda

There were no items.

ITEM 5: Called Up Consent Items-Items from Consent Agenda Only

There were no items.

ITEM 6: Public Comments

Director Kinney asked if there were any comments from the audience. Dan Wall approached the Board and stated being a Director during his short tenure was a difficult job but a tremendous experience. One of the reasons he resigned was because of his health. He wanted all the Directors know they have his utmost respect.

ITEM 7:      Action Item Requests and Staff Reports – 30 Minutes

Legal Counsel Paul Rufien gave the Board some pointers on how to fill a vacant Director’s position. He suggested options of having the District’s residents submit their interest for Board review or for the Board to select the candidate from the last election who had the next highest votes. The deadline to select a new Director is 60 days. If the District is unable to achieve this, he stated the County can appoint a vacancy.

Discussion ensued. Director Hasbrouck suggested selecting the candidate who had the next highest votes in the last election. Director Ferguson proposed to have residents submit their letter of interest. She asked a few attendees in the audience if they would be interested in the position.

**MOTION:    DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR KELEHER, TO POST THE ANNOUNCEMENT ON THE DISTRICT’S WEBSITE AND SOCIAL MEDIA IN ORDER TO SEEK THE INTEREST OF QUALIFIED CANDIDATES IN THE DISTRICT WHO MAY BE INTERESTED IN THE VACANT POSITION AND TO SET A DEADLINE OF DOING SO FOR NOVEMBER 10, 2023. TRACEY FERGERSON-YES. STEVE HASBROUCK-NO. LINDA KELEHER-YES. MICHELLE MARIE KINNEY-YES. MOTION PASSED (3-1).**

The Bylaws were discussed in a Board of Director’s Work Session held on August 30, and an amended version of the same was brought before the Board for review.

**MOTION:    DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR KELEHER, TO TABLE THE BYLAWS FOR FURTHER REVIEW UNTIL SUCH TIME THERE IS A FIVE-DIRECTOR BOARD. TRACEY FERGERSON-YES. STEVE HASBROUCK-NO. LINDA KELEHER-YES. STEVE HASBROUCK-NO. MICHELLE MARIE KINNEY-YES. MOTION PASSED (3-1).**

Jeff Munger presented an MSA for Integrity Roofing and Painting to the Board. This would be for work to be completed on the District’s roofs which recently experienced hail damage.

**MOTION:    DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR KELEHER, TO APPROVE THE MSA FOR INTEGRITY ROOFING AND PAINTING. ALL IN FAVOR. MOTION PASSED BY GENERAL CONSENT.**

The second MSA was for National Network Services, Inc, for services for SCADA software.

**MOTION:    DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR KELEHER, TO APPROVE THE MSA FOR NATIONAL NETWORK**

**SERVICES, INC. ALL IN FAVOR. MOTION PASSED BY GENERAL CONSENT.**

Two GSAs for Burns & McDonnell were presented to the Board. Mr. Munger and Mr. Rufien alerted the Board of the operational risks associated with the WRF blower replacement project. Mr. Munger suggested he re-address and negotiate consequential damages in the Agreement with Burns & McDonnell.

**MOTION: DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR KELEHER, TO PROCEED WITH THE GSA FOR BURNS & MCDONNELL FOR THE WRF BLOWER REPLACEMENT PROJECT-ENGINEERING SERVICES SUBJECT TO FINAL APPROVAL BY STAFF AND LEGAL COUNSEL. ALL IN FAVOR. MOTION PASSED BY GENERAL CONSENT.**

Mr. Munger gave the Board an overview of the second GSA which was for the bioreactor covers study. Kevin Brown supplemented his report with additional information and recommended the Board to provide approval subject to an increase in liability to match the GSA in the earlier discussion.

**MOTION: DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR KELEHER, TO PROCEED WITH THE GSA FOR BURNS & MCDONNELL FOR THE BIOREACTOR COVERS STUDY SUBJECT TO FINAL APPROVAL BY STAFF AND LEGAL COUNSEL. ALL IN FAVOR. MOTION PASSED BY GENERAL CONSENT.**

Mr. Munger presented Change Order #6 by Burns & McDonnell and Garney Companies, Inc., which would modify Amendment No. 1 dated December 15, 2020 to the Agreement dated October 2, 2019. The contract price summary for Change Order #6 which be \$-81,404 which would result in a revised contract price of \$42,384,470.

**MOTION: DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR KELEHER, TO APPROVE CHANGE ORDER #6 WITH BURNS & MCDONNELL AND GARNEY COMPANIES, INC. WHICH WOULD RESULT IN A REVISED CONTRACT PRICE OF \$42,384,470 AND WOULD CLOSE OUT THE PROJECT. ALL IN FAVOR. MOTION PASSED BY GENERAL CONSENT.**

The Mayberry land purchase and sale agreement which was in last month's discussion was brought up for review. Kevin Brown provided an easement and site plan report and requested Board approval to ratify the easement agreements.

**MOTION: DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR KELEHER, TO RATIFY THE MAYBERRY EASEMENT AGREEMENTS AND SITE PLAN. ALL IN FAVOR. MOTION PASSED BY GENERAL CONSENT.**

Last summer the District voluntarily participated in initiative-taking testing for a group of unregulated chemicals commonly known as PFAS. In June, 2022, the EPA released interim lifetime health advisories and proposed drinking water standards in March 2023. EPA anticipates finalizing the rule by the end of 2023. The District is working closely with CDPHE on possible next steps to understand and evaluate this concern.

The City of Colorado Springs License Agreement was next on the Agenda and was regarding the City’s expansion of Marksheffel Blvd near the District’s Tamlin Tank. In addition, a third party is requiring the use of an existing District easement, and the consent to that use is currently being discussed. There was discussion that the District should interject a proposal for the City to accept ownership and/or maintain the electrical tower in the Claremont Ranch Subdivision, along with the Stewart Avenue property to successfully approve the non-exclusive License Agreement between CSU and the District.

More discussion will be forthcoming at the next Board meeting regarding the city’s expansion of Marksheffel Blvd.

The Springside parcels were up next, and a lengthy discussion ensued. Director Kinney stated the District cannot negotiate (to sell or transfer) a property without owning it. She mentioned the District has owned the parcels for 20 years and that in the June 20, 2023 meeting the Board voted 4-1-0 to correct title on the two parcels (entrances). Mrs. Lathen stated they have been maintained by the District, and she reiterated the Board must vote to accept ownership of the land.

Director Kinney asked for a Motion on the floor.

**MOTION: DIRECTOR HASBROUCK MOVED TO NOT APPROVE OWNERSHIP OF ACCEPT OWNERSHIP OF #5404101009 – 2386 SPRINGSIDE DR, AND #5404102056 – 2395 SPRINGSIDE DR. MOTION DIED FOR LACK OF A SECOND.**

**ITEM 8: Finance and Accounting**

In Cathy Fromm’s absence, Julie Wells provided the August and September Financial Reports to the Board and asked if they had any questions. They did not have any questions.

**ITEM 9: Attorney Items**

Paul Rufien provided a legal report for review and discussion. Ongoing projects include the CSU Wastewater Agreement, Mayberry/Ellicott property acquisition, Norwood Tank site acquisition, Access to Tank Site involving Space Force, Marksheffel Expansion and City License, and the Woodmen Hills Water Service Agreement.

**ITEM 10: Other Business/Directors Items-No Action Taken**

Director discussions continued regarding the DEO for the District for the 2025 Special District Board Election, discussion on a new website which would uphold the required state mandate for

ADA accessibility, the District's check writing policy, and Directors Signatures. Director Ferguson suggested continuing the DEO discussion to a later time when there were five Directors on the Board.

ITEM 11:     Executive Session

**MOTION:   DIRECTOR FERGERSON MOVED, SECONDED BY DIRECTOR HASBROUCK, TO MOVE INTO EXECUTIVE SESSION PURSUANT TO §24-6-402(4)(F), C.R.S., PERSONNEL MATTERS, §24-6-402(4)(A), C.R.S. PURCHASE, ACQUISITION, LEASE, TRANSFER, OR SALE OF ANY REAL, PERSONAL, OR OTHER PROPERTY INTEREST, §24-6-402(4)(E), C.R.S., DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND INSTRUCTING NEGOTIATORS, AND §24-6-402(4)(B), C.R.S., CONFERENCE WITH THE DISTRICT'S ATTORNEY REGARDING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS. TRACEY FERGERSON-YES. LINDA KELEHER-NO. STEVE HASBROUCK-NO. MICHELLE MARIE KINNEY-YES. MOTION FAILED (2-2).**

ITEM 12:     Other Meetings of Importance – As Listed on Agenda

ITEM 13:     Adjournment

There being no further business to come before the Board at this time, the meeting was adjourned at 7:55 p.m.

 11/21/2023

Tracey Ferguson, Secretary/Treasurer

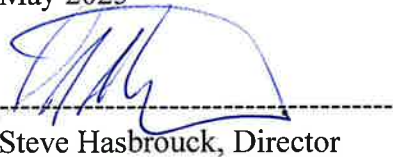
Board Members

Term Expires

Michelle Marie Kinney, President	May 2025
Vacant, Vice-President	May 2027
Tracey Ferguson, Secretary/Treasurer	May 2027
Steve Hasbrouck, Director	May 2025
Linda Keleher, Director	May 2025

 11-21-23

Michelle Marie Kinney, President



Steve Hasbrouck, Director



Linda L. Keleher, Director