

**Fountain Creek Watershed, Flood Control and Greenway District  
BOARD OF DIRECTORS**

**MINUTES**

December 4, 2009

The meeting was held at:  
City of Fountain, City Hall  
116 S. Main Street, 2<sup>nd</sup> Floor  
Fountain, CO 80817

**1. CALL TO ORDER AND ESTABLISHMENT OF A QUORUM:**

El Paso County Commissioner Dennis Hisey called the meeting to order at 1:05 p.m.

In attendance were the following duly designated members of the Board of Directors of the District:

<u>Name</u>	<u>Appointing Authority</u>
Dennis Hisey	El Paso County
Jeff Chostner	Pueblo County
Larry Small	City of Colorado Springs
Gabriel Ortega	City of Fountain
Larry Atencio	City of Pueblo
Max Stafford	EPC Small Municipalities
Richard Skorman	Citizens Advisory Group

A quorum was noted.

**2. APPROVAL OF AGENDA:**

Upon motion duly made, seconded, and unanimously carried, the agenda for the December 4, 2009 meeting was approved.

**3. APPROVE MINUTES OF PRIOR BOARD MEETING**

Upon motion duly made, seconded, and unanimously carried, the minutes of the Board meeting of October 23, 2009 were approved.

**4. PUBLIC COMMENT**

None

**5. MATTER OF PUBLIC INTEREST – Bruce McCormick – Colorado Springs Utilities – Stormwater Management Issues**

Bruce McCormick, Chief of Water Services of Colorado Springs Utilities (“CSU”) stated that CSU would honor its stormwater commitments to Fountain Creek despite the decision of the Colorado Springs City Council to discontinue the stormwater enterprise. Mr. McCormick informed the Board that CSU was obligated to address stormwater issues by both Pueblo County’s 1041 permit and the Bureau of Reclamation’s EIS. Mr. McCormick reiterated that Fountain Creek would benefit from SDS because of \$50 million to be paid directly to the District and \$75 million in continued improvements to the wastewater system.

**6. PUBLIC HEARING, APPROVAL AND APPROPRIATION OF 2010 BUDGET**

Larry Small moved and Richard Skorman seconded the adoption of the following Resolution. It was approved by a vote of 7-0.

**RESOLUTION NO. 2009-01—GENERAL**

**BOARD OF DIRECTORS  
FOUNTAIN CREEK WATERSHED, FLOOD CONTROL  
AND GREENWAY DISTRICT**

**RESOLUTION TO ADOPT 2010 BUDGET AND APPROPRIATE SUMS OF MONEY FOR THE YEAR BEGINNING JANUARY 1, 2010, AND ENDING DECEMBER 31, 20120.**

WHEREAS, pursuant to the Colorado Local Government Budget Law, §§ 29-1-101, *et seq.*, C.R.S., the Board of Directors of the Fountain Creek Watershed, Flood Control and Greenway District (“District”) must adopt the annual budget for 2010, and must appropriate sufficient revenues to fund the total expenditures set forth in the annual budget; and

WHEREAS, a proposed budget was submitted to the District on or before October 15, 2009, pursuant to § 29-1-105, C.R.S.; and

WHEREAS, upon due and proper notice, published and posted in accordance with the laws of the State of Colorado, including the notice requirements of § 29-1-106(3), C.R.S., the proposed 2010 budget was open for inspection by all interested electors within the boundaries of the District, namely, El Paso County and Pueblo County, up to and including this date of December 4, 2009, and said electors were given the opportunity to file or register any objections to said proposed budget up to and including this date pursuant to § 29-1-107, C.R.S.; and

WHEREAS, a public hearing was held by the District on this date of December 4, 2009, to provide Directors of the District and interested electors within the boundaries of the District, namely, El Paso County and Pueblo County, an opportunity to file or register

any objections, and to review evidence and hear testimony as presented to the District on the proposed 2010 budget pursuant to § 29-1-108(1), C.R.S.; and

WHEREAS, whatever increases may have been made in the expenditures, like increases were added to the revenues so that available revenues and beginning fund balances are in an amount equal to or greater than the total expenditures as required by § 29-1-103(2), C.R.S.; and

WHEREAS, pursuant to § 29-1-108, C.R.S., upon adoption of the budget and before the beginning of the fiscal year, it is necessary to appropriate the revenues provided in said budget by adoption of a resolution making such appropriations, to and for the purposes described therein, to enable the District to carry out its objectives and operations.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Fountain Creek Watershed, Flood Control and Greenway District that the budget attached hereto as Exhibit A and incorporated herein by this reference, is hereby approved and adopted as the budget for the District for the year January 1, 2010 through December 31, 2010.

BE IT FURTHER RESOLVED that the District is prohibited from expending or obligating funds in excess of the total amount budgeted. Revenues in excess of expenditures will become reserves.

BE IT FURTHER RESOLVED upon approval and adoption of the budget, that the following sums are hereby appropriated out of revenues of each of the following funds now held or to be collected by the District during the year 2010 for the purposes of defraying all necessary expenditures and liabilities for the District for the fiscal year 2010, as set forth in said budget:

<u>District Funds</u>	<u>Appropriated Amount</u>
General Fund	\$100,000.00
Master Plan Fund	200,000.00
Flood Control Study Fund	<u>201,600.00</u>
Total	<u>\$501,600.00</u>

BE IT FURTHER RESOLVED that it is the intent of the District that the District will credit interest gained (if any) through the investment of District funds, unless otherwise restricted by bonding documents or statute, to the general revenues of the District.

BE IT FURTHER RESOLVED that, pursuant to § 29-1-113, C.R.S., a certified copy of this Resolution shall be filed with the Colorado Department of Local Affairs, Division of Local Government.

BE IT FURTHER RESOLVED that the Chairman of the District, or the Vice Chair in the Chairperson's absence, is hereby authorized to execute this Resolution and any other

documents that may be necessary to meet statutory filing requirements of the Colorado Department of Local Affairs, Division of Local Government on behalf of the District.

**GENERAL FUND  
REVENUES**

<b>Source</b>	<b>Estimated 2009</b>	<b>Estimated 2010</b>	<b>Approved Budget 2010</b>
Colorado Springs Utilities	\$50,000	\$50,000	\$100,000
Lower Ark	\$50,000	\$50,000	<u>\$100,000</u>
<b>TOTAL</b>			<b>\$200,000</b>

**EXPENDITURES**

<b>Item</b>	<b>Approved Budget 2010</b>
Interim Executive Director Compensation	\$60,000
Office Supplies	\$500
Postage / Overnight Delivery	\$500
Telephone / Fax	\$500
Travel	\$5,000
Legal	\$25,000
Independent Audit	\$5,000
Miscellaneous Expenses	<u>\$3,500</u>
<b>TOTAL</b>	<b>\$100,000</b>

**MASTER PLAN FUND  
REVENUES**

<b>Source</b>	<b>Estimated 2009</b>	<b>Estimated 2010</b>	<b>Approved Budget 2010</b>
Colorado Springs Utilities	\$25,000	\$100,000	\$125,000
Lower Ark	\$25,000	\$100,000	<u>\$125,000</u>
<b>TOTAL</b>			<b>\$250,000</b>

**EXPENDITURES**

<b>Item</b>	<b>Approved Budget 2010</b>
Independent Contractor	\$200,000

**FLOOD CONTROL STUDY  
FUND**

**REVENUES**

<b>Source</b>	<b>Estimated 2009</b>	<b>Estimated 2010</b>	<b>Approved Budget 2010</b>
SDS Participants	\$100,000	\$100,000	\$200,000
Certificate of Deposit Interest	\$0	\$1,600	<u>\$1,600</u>
<b>TOTAL</b>			<b>\$201,600</b>

## EXPENDITURES

Item	Approved Budget 2010
Independent Contractor	\$0

**7. CONSIDERATION AND APPROVAL OF PROFESSIONAL SERVICES AGREEMENT BETWEEN COLORADO SPRINGS UTILITIES, THE LOWER ARKANSAS VALLEY WATER CONSERVANCY DISTRICT, THE FOUNTAIN CREEK WATERSHED, FLOOD CONTROL AND GREENWAY DISTRICT, AND THK, INC., FOR DEVELOPMENT OF A FOUNTAIN CREEK CORRIDOR MASTER PLAN**

Following a discussion, upon motion duly made, seconded, and unanimously carried, the December 4, 2009 Professional Services Agreement between the District, Colorado Springs Utilities, the Lower Arkansas Valley Water Conservancy District and THK, Inc. for development of a Fountain Creek Corridor Master Plan was approved.

**8. INTERVIEWS OF 5 FINALISTS AND SELECTION OF THE INTERIM EXECUTIVE DIRECTOR**

The five (5) finalists for appointment as interim executive director of the District were publicly interviewed in the following order: Gary Barber; James Munch; Dennis Maroney; Kevin McCarthy and Mark Carmel.

**9. OTHER BUSINESS**

Lewis Quigley and Carol Lange addressed the Board and recommended that the Board appoint James Munch as interim executive director of the District.

**10. EXECUTIVE SESSION**

Upon motion duly made, seconded and carried 7-0, the Board went into executive session from 4:25 p.m. until 5:20 p.m. to discuss the appointment of an interim executive director of the District. Present in the executive session were Board members Hisey, Chostner, Small, Ortega, Atencio, Skorman and Stafford along with attorneys Cole Emmons and Dan Kogovsek. No decisions were made by the Board during the executive session.

After a vote of 7-0 to return to the public meeting, ballots containing the names of the five (5) finalists for appointment as interim executive director of the District were distributed to members of the Board. The ballots were cast by the Board members present and were tabulated by Mr. Emmons and Mr. Kogovsek, attorneys for the District, with the following results:

Gary Barber – 4 votes

James Munch – 3 votes

Upon motion duly made, seconded, and unanimously carried, the Board offered the position of interim executive director to Mr. Barber, as an independent contractor, with annual compensation of \$60,000.00, subject to the District and Mr. Barber entering into an independent contractor agreement to be drafted by the attorneys for the District.

**11. DATE, TIME, AND LOCATION OF NEXT MEETING:**

Upon motion made, duly seconded and unanimously carried, it was resolved that the next meeting of the District Board of Directors would take place at 1:00 p.m. on Friday, January 22, 2010, at the Fountain City Hall, 116 S. Main Street, 2<sup>nd</sup> Floor, Fountain, CO 80817.

**12. ADJOURN:**

The meeting adjourned at 5:30 p.m.

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Larry Small, Secretary