

Fountain Creek Watershed, Flood Control and Greenway District
BOARD OF DIRECTORS
MINUTES
January 22, 2010

The meeting was held at:
City of Fountain, City Hall
116 S. Main Street, 2nd 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
Jane Rhodes	Fountain Creek Land Owner
Leroy Mauch	Lower Arkansas Water Conservancy District

A quorum was noted.

2. APPROVAL OF AGENDA:

Upon motion duly made, seconded, and unanimously carried, the agenda for the January 22, 2010 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 December 4, 2009 will be presented for approval at the meeting of February 26, 2010.

4. PUBLIC COMMENT

None

5. ELECTION OF OFFICERS:

Upon motion duly made, seconded, and unanimously carried, the following slate of officers was approved for 2010:

- A. Chairperson – Jeff Chostner
- B. Vice Chairperson – Larry Small
- C. Secretary – Larry Atencio
- D. Treasurer / Custodian of Funds – Gabe Ortega

It was also moved, seconded, and unanimously carried; that current officers will serve as the Executive Committee.

6. COLORADO SUNSHINE LAW COMPLIANCE

- A. Meeting notices will be posted at the same place as the El Paso County and Pueblo County Commissioners meeting notices are posted.
- B. The day and time of regular meetings shall be the 4th Friday monthly, at 1:00 pm. The primary meeting place will be the Fountain City Hall; however the District has the ability and desire to meet in varying locations from time to time.
- C. The Secretary shall be the official custodian of records – the Executive Director will also keep records as appropriate.
- D. Official minutes and records will be maintained by the District Secretary, with copies to also be maintained by the Executive Director.
- E. The audio recording is hereby designated as the official record of meetings.
- F. The audio recording of executive sessions is hereby ordered, except for attorney/client communications.
- G. The Official Newspapers for publication of required notices shall be the same newspapers that are used by the Boards of Commissioners of El Paso and Pueblo Counties.

Upon motion duly made, seconded, and unanimously carried, items A through G listed above were approved.

7. APPROVE BUDGET STATEMENT AND AUTHORIZE FILING OF COPY OF BUDGET WITH COLORADO DEPARTMENT OF LOCAL AFFAIRS, DIVISION OF LOCAL GOVERNMENT

Upon motion duly made, seconded, and unanimously carried, the budget statement was approved and the filing of the 2010 budget with Colorado Department of Local Affairs, Division of Local Government was approved.

8. CONSIDERATION AND APPROVAL OF PROFESSIONAL SERVICES CONTRACT FOR DESIGNATED INTERIM EXECUTIVE DIRECTOR GARALD “GARY” BARBER

Upon motion duly made, seconded, and unanimously carried, the professional services contract for Interim Executive Director Garald Barber was approved.

9. PRESENTATION OF DRAFT BYLAWS (WITH APPROVAL AT FEBRUARY 26 MEETING)

Having made considerable revisions, Mr. Emmons requested that the District Board look over the rough draft between meetings and wait to discuss the bylaws until the February District Board meeting.

10. DIRECTION REGARDING POSTING NOTICE FOR DIRECTORS TO ATTEND LAFARGE/SUNDANCE RESOURCES SPECIAL USE AND VARIANCE LAND USE HEARING BEFORE EL PASO COUNTY BOARD OF COUNTY COMMISSIONERS ON JANUARY 28, 2010 AT 9:00 AM.

Legal counsel recommended and board members agreed to post the El Paso County Board of County Commissioners meeting as a meeting of the District, so that board members could attend as they wish and comply with open meeting law.

11. APPOINTMENT/REAPPOINTMENT OF TECHNICAL ADVISORY COMMITTEE AND CITIZENS ADVISORY GROUP (CAG) MEMBERS

Terms for both groups expire at the end of January 2010. The recommendation of the CAG was that all 16 members of the CAG be reappointed; that Citizens at Large be appointed for 2-year terms, and that Stakeholder members be appointed for 3-year terms, then be subject to 2-year terms into the future. This recommendation is made in order to achieve a staggering of terms. Jeff Chostner requested that Terry Hart be added to the CAG roster.

Mr. Emmons recommended that the current roster of the TAC be reappointed, with some changes yet to be made, including a representative from the City of Pueblo and a representative from Fort Carson.

Upon separate motions made, duly seconded and unanimously carried, it was resolved to reappoint members from the current rosters of both Technical Advisory Committee and Citizens Advisory Group as detailed above.

12. EXECUTIVE SESSION, PURSUANT TO C.R.S. §24-6-402(4)(b), COUNSEL FOR THE DISTRICT IS REQUESTING AN EXECUTIVE SESSION WITH THE BOARD OF DIRECTORS REGARDING THE FOLLOWING MATTERS:

Upon motion duly made, seconded and carried 9-0, the Board went into executive session at 1:30 p.m. for the purpose of receiving legal advice on specific legal questions related to the following:

- A. The District's Land Use authority and jurisdiction regarding Colorado Springs Utilities' land use applications for the Southern Delivery System
- B. Delivery of legal services in 2010

No decisions were made by the board during Executive Session. A vote of 9-0 was made to return to the public meeting. Directions were given to legal counsel on the issues discussed.

13. REVIEW, RECEIVE RECOMMENDATIONS BY THE TECHNICAL ADVISORY COMMITTEE ("TAC") AND THE CITIZENS ADVISORY GROUP ("CAG"), DISCUSSION, AND DECISIONS CONCERNING THE FOLLOWING:

A presentation was made by Jerry Forte, Bruce McCormick, John Fredell and Keith Riley of Colorado Springs Utilities regarding the request by Colorado Springs Utilities (Applicant) on behalf of the City of Colorado Springs, City of Fountain, Security Water District, and Pueblo West Metropolitan District (Project Participants) for approval of the Southern Delivery System (SDS) Project in response to the requirements of Colorado Senate Bill 09-141, which gives the Fountain Creek Watershed, Flood Control and Greenway District land use authority within the Fountain Creek Corridor, defined as the FEMA 100-Year Floodplain boundaries between the City of Fountain and the City of Pueblo, and recommending authority for areas outside of the Fountain Creek Corridor and within the Fountain Creek Watershed. Copies of Specific applications are as follows:

- A. A request by Colorado Springs Utilities for approval of location of the Southern Delivery System Raw Water Pipeline pursuant to C.R.S. § 30-28-110 and Section 5.3.3 of the El Paso County Land Development Code. The pipeline is proposed to extend from the El Paso County/Pueblo County line to a future water treatment facility located in the City of Colorado Springs. The pipeline is proposed to extend into multiple jurisdictions, including El Paso County, the City of Fountain, and the City of Colorado Springs. The proposed alignment causes the pipeline to intersect with several major roadways, including Interstate 25, Highway 94, Highway 24, Marksheffel Road, Bradley Road, Drennan Road, Squirrel Creek Road, and Hanover Road, in addition to intersecting with Fountain Creek.
- B. A request by Colorado Springs Utilities for approval of location of the Southern Delivery System Finished Water Pipeline pursuant to C.R.S. § 30-28-110 and Section 5.3.3 of the El Paso County Land Development Code. The pipeline is proposed to extend from a future water treatment facility located within the City of Colorado Springs, through portions of unincorporated El Paso County, to an area southeast of the intersection of Marksheffel Road and Woodmen Road. The proposed alignment causes the pipeline to intersect with several major roadways, including Highway 24, Marksheffel Road, and Constitution Avenue.
- C. A request by Colorado Springs Utilities for approval of location of the Southern Delivery System Bradley Pump Station pursuant to C.R.S. § 30-28-110 and Section 5.3.3 of the El Paso County Land Development Code. The 475.46-acre parcel is zoned RR-5 (Residential Rural) and is located south of Bradley Road, north of Squirrel Creek Road, within the Williams Creek Drainage Basin. The facility is proposed to include a forebay and pump station building. The facility will pump untreated water toward a future water treatment facility, which is proposed to be located within the incorporated boundaries of the City of Colorado Springs.
- D. A request by Colorado Springs Utilities for approval of location of the Southern Delivery System Upper Williams Creek Reservoir pursuant to C.R.S. § 30-28-110 and Section 5.3.3 of the El Paso County Land Development Code. The reservoir is proposed to occupy 950 surface acres on 15 separate parcels zoned RR-5 (Residential Rural). The reservoir is anticipated to be located east of Meridian Road, west of Curtis Road, and bisected by the existing alignment of Bradley Road. The reservoir will be sized for storage of 30,500 acre-feet of water and include a dam of approximately 129 feet in height.
- E. A request by Colorado Springs Utilities for approval of location of the Southern Delivery System Exchange Flow System pursuant to C.R.S. § 30-28-110 and Section 5.3.3 of the El Paso County Land Development Code. The Exchange System is proposed to include three main components: 1) the use of the existing 12-mile long Chilcotte Ditch, which diverts water from Fountain Creek toward users near Security and Fountain; 2) construction of the 1,057-acre Williams Creek

Reservoir, which is anticipated to have a capacity of 28,500 acre-feet of water; and 3) construction of the 5-mile long Exchange Flow Pipeline extending from the Williams Creek Reservoir back to Fountain Creek.

A copy of materials provided to the board is included as an attachment to this record. Members of the public were invited to comment and ask questions following the presentation. Comments supporting the Southern Delivery System Project were made by Margaret Radford, Randy Thurston, Roy Heald and Larry Patterson. Board members then asked questions of the panel and made comments regarding the project and the Stormwater Enterprise.

Further discussion ensued regarding recommendations made by the TAC and CAG committees. TAC and CAG letters detailing recommendations are included as part of this record.

Upon separate motions duly made, seconded and unanimously approved, Applications 13A, 13B, 13C, 13D and 13E passed, to include the recommendations of the TAC and CAG as follows:

1. Detailed site development plans shall be submitted to the District for review of the two areas of the Fountain Creek floodplain that are directly impacted by construction: the Raw Water Pipeline and Exchange Flow Pipeline crossings.
2. The integrated Adaptive Management Plan (IAMP) shall be submitted to the District for review, and periodic reports on water quality and quantity shall be provided to the District.
3. The inclusion of Paragraph #23 of the Recommended Terms and Conditions and Mitigation of Project Impacts: SDS 1041 Application, of March 18, 2009, as follows: “The Applicant shall maintain stormwater controls and other regulations intended to ensure that Fountain Creek peak flows resulting from new development served by the SDS project within the Fountain Creek basin are no greater than existing conditions. This requirement can only apply to Project Participants who have the legal authority to regulate in this manner. Regulations shall comprehensively address peak flow conditions, runoff volumes, and flood hazards, incorporating at a minimum all relevant components of existing regulations of Colorado Springs and other Project Participants including: regional drainage planning for low-flow and major storm events; detention; erosion and sediment control for land disturbance, construction and similar activities; structural measures such as channel protection and engineered outfalls; prohibition of activities that infringe on the designated floodway; water quality controls, including water quality capture volume and determination of the need for permanent best management practices (BMPs); and adequate provision for maintenance of all drainage-related facilities so required. This condition shall not prevent Colorado Springs and other local jurisdictions subject to this condition from revising and improving stormwater regulations from time to time, to incorporate new technologies, management techniques, or otherwise modify regulations consistent with the intent of not exceeding historical peak flows. See Mitigation Appendix E-2.”

14. OTHER BUSINESS - none

15. SETTING DATE, TIME AND LOCATION OF NEXT MEETING AND SUBSEQUENT MEETINGS

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, February 26, 2010, at the Fountain City Hall, 116 S. Main Street, 2nd Floor, Fountain, CO 80817.

The meeting adjourned at 3:15 p.m.

Larry Small, Secretary