

Fountain Creek Watershed District
Citizens Advisory Group
Meeting Minutes
December 11, 2009

This meeting was held at:
Pueblo City Council Chambers
#1 City Hall Place
Pueblo, CO 81003

Note: A recording of this meeting is not available.

1. Call to Order and Introductions

The December 11, 2009, meeting of the Fountain Creek Watershed Citizens Advisory Group ("CAG") was called to order by Vice Chairperson, Mr Jay Winner, at approximately 9:35am. In attendance were the following designated members of the CAG.

Jay Winner – Vice Chair
Ross Vincent
Irene Kornelly
Eva Montoya
Dennis Maroney
Mary Barber

Tom Ready
Dan Henrichs
Kevin Walker
Carol Baker
Jack Johnston
David Kinnischtzke

Members not present:
Ferris Frost – Chairperson
Juniper Katz
Tom Evans
Richard Skorman

A quorum was noted.

2. Approve Agenda of December 11, 2009

Upon motion duly made, seconded and unanimously carried, the agenda for the December 11, 2009 meeting was approved.

3. Approve Minutes of Prior Meeting(s)

Action: Upon motion duly made, seconded and unanimously passed, the November 13, 2009 meeting minutes were approved.

4. Terms

Action: Upon motion duly made, seconded and discussed, it was resolved by vote (9 For, 1 Against) to recommend to the District Board the following terms for CAG members:

-Key stakeholders (those members representing specific groups, e.g. land owners on Fountain Creek) serve three years beginning in 2010; after this initial three year term, representatives serve two years per term.

-At large representative terms serve two years per term beginning in 2010.

-No limit to the number of terms that may be served.

Discussion:

-Generally, staggered terms were deemed important to the members for continuity.

-All CAG member terms currently end in January 2010.

-Mr Kogovsek, Legal Counsel, informed the group that the statute for Board members is determined by formula with half of members with terms expiring in 2011 and half in 2012.

-Alternative periods were considered such as four years per term.

-Additionally, there was general agreement among the CAG members to consider a recommendation for eight of the representatives (key stakeholders) to have alternates, with one vote for each stakeholder group even if both the member and alternate are present. Each key stakeholder representative could find their own alternate and submit a name to the Board. The CAG could make a recommendation to the Board for selection.

-Two to three permanent alternates may also be considered in order to ensure a quorum so that business could be conducted.

-Mr Kogovsek recommended providing a slate of recommended CAG members to the Board in January with alternates for approval.

-The CAG agreed to postpone making recommendations concerning alternates to allow for discussion at a future meeting.

5. Matter of Public Interest – State Rep. Sal Pace – Proposed legislation regarding mitigation of water transfers

Mr Pace provided information about the proposed Mitigation Incentive Bill to be introduced during the Colorado legislative session 2010. Printed copies of a draft summary of the bill and the legislation were provided to the members.

The purpose of the legislation is to encourage applicants to work with conservancy districts to enter into mitigation agreements for any sale, change of use, decree, or exchange of water from one water division to another. The proposed legislation does not require an agreement. A Water Court judge would not apply the 1937 Conservancy District Act language if the applicant has entered into a mitigation agreement voluntarily with the affected water conservation and water conservancy districts to consider economic and ecological effects of the transfer.

The current Conservancy District Act language only applies to transfers of water by a water conservancy district out of the Colorado River Basin. The proposed bill expands the language to include all cross-division transfers in order to protect existing and future water users.

The legislation is supported by several members of the House and Senate Agriculture Committees and others. Senate sponsors are as yet undetermined. Some members oppose the legislation.

Mr Pace told the CAG he is informing as many groups as possible about the legislation, and he encourages comments on the legislation.

CAG members posed the following questions to Mr Pace:

-Member Vincent noted that there is nothing to prohibit applicants from entering agreements now and asked if this legislation incentivizes applicants to do so. He also posed questions about the ability of the judge to apply other mitigation and public comment opportunities. Mr Pace responded that there is no requirement in water law today that requires applicants to consider impacts on communities where water moves from one division to another except as provided in the 1937 Act. The legislation provides incentive to do so in that the judge may not apply other mitigation if there is a mitigation agreement. There are provisions and opportunities for public comment.

-Member Henrichs commented that a transfer of water from agriculture to anywhere is still a transfer from agriculture. It is still a transfer out of the basin. He does not think the legislation is needed, and it may devalue water rights by making it harder for shareholders, creates less competitions and more bureaucracy. Mr Pace indicated that the legislation will apply typically to large municipalities. He also noted that the State Engineer does not see falling water rights prices based on projections of water needed in Denver.

-Member Winner clarified for the members that comments to Mr Pace on the legislation would be from them as individuals and not as members of the CAG.

6. Review and discussion regarding establishing review criteria, structure, and procedures for submittals to be presented for CAG consideration

Action: Upon motion duly made and seconded, it was unanimously resolved to approve the criteria as submitted.

The members thanked Member Kornelly for her preparation and revision of the criteria over the last several meetings.

7. SDS Basics presentation

Mr Keith Riley, SDS Planning and Permitting Manager, provided an overview of the SDS project with a focus on aspects of the project of interest to the CAG, the Technical Advisory Committee ("TAC") and the District. A hard copy of the presentation was provided to the members. Following the presentation, a hard copy and compact disk of the SDS Fountain Creek Watershed Application Package, December 2009, was provided to each CAG member.

Mr Riley stated that he is trying to align the District process with the El Paso County Planning Commission process and schedule. Approval from the District is desired before meeting with the Commission. He hopes to finalize the process with the District in January 2010 followed by the El Paso Planning Commission in February 2010.

-Meet with TAC January 6, 2010

-Meet with CAG January 8, 2010

-Present to the District Board January 22, 2010

-Present to El Paso Planning Commission February 2, 2010

Mr Riley provided an overview of the SDS project in its entirety. The project will be accomplished in two phases. The first phase involves construction of the outlet works at Pueblo Reservoir; the raw water pipeline from the Reservoir to the water treatment plant; three pump stations; and the treatment plan. Phase I will be accomplished from 2010 – 2016. In 2010, they

will also begin dredging the levees in Pueblo; constructing a wetland at Clear Springs Ranch; adding sinuosity within the stream reach; and constructing finished water pipelines. The intention is to be able to provide water service to Colorado Springs and partners (Security, Fountain and Pueblo West) by 2016. Phase II of the project, construction of two reservoirs, will take place from 2020 to 2025.

The portion of the project within the District is where the pipeline crosses Fountain Creek near the vicinity of the Pikes Peak International Raceway ("PPIR"). The pipeline will be bored 20 feet below the streambed. It will also be bored under Interstate 25 ("I-25") and the railroad tracks located east of I-25. The remainder of the pipeline in this area will be open cut. The return flow pipeline from Williams Creek Reservoir to Fountain Creek is not yet designed and will occur as Phase II gets closer.

Mr Riley reviewed current environmental mitigation required by the project Environmental Impact Statement (EIS), the 1041 agreement and other anticipated permits and agreements. These consist of projects related to:

- Flow management
- Fisheries/Aquatic habitat
- Wetlands/Riparian area
- Recreation
- Other commitments regarding vegetation, wildlife and geomorphic mitigation/monitoring

Mr Riley also discussed mitigation of construction activities and public outreach. The latter includes pre-construction, construction and property owner updates by Pueblo and El Paso counties.

Mr Riley noted that peak flow in Fountain Creek will not increase due to development served by the SDS. Also, less than one-quarter acre of wetlands are impacted and the project will enhance/construct wetlands at Clear Springs Ranch.

Mr Riley also addressed the following mitigation strategies relative to the District interests including the Strategic Plan and U.S. Army Corps of Engineers ("COE") study recommendations:

- Monetary mitigation, which includes \$50 million to Fountain Creek Watershed District and \$75 million for wastewater collection system rehabilitation
- Water quality and sedimentation, including an adaptive management plan that will provide guidelines and flexibility in responding to differing system conditions than anticipated
- Flooding and stormwater management
- Municipal water supplies and return flows
- Related infrastructure enhancements such as manhole cover security and upgraded wastewater pipes
- Land use and agriculture
- Wetlands
- Recreation, wildlife and outreach

Mr Riley responded to questions and comments from the CAG members.

-Flow in Fountain Creek will increase between one-half and two inches, but there will be no increase in the peak. There will be no or minimal impact on flooding.

- The public process for dredging of the levees in Pueblo has not been completely planned out. Mr Riley is working with Mr Maroney, the Pueblo Storm Water Director.
- The adaptive management plan is not a yet a final document. It will be available to the public and included in contracts with the Bureau of Reclamation.
- Member Vincent commented that the demise of the Colorado Springs Stormwater Enterprise raises concerns about all development impacts, especially a concern about water quality. Member Maroney attempted to respond to this comment and stated that this is addressed under stormwater management mitigation. Additional National Environmental Policy Act ("NEPA") evaluation and permitting is required for any new participants. The legal authority will be the drainage criteria in use by the other participants. Mr Maroney also noted that the volume of water is not so much addressed as peaks. There are still questions about which projects will be completed via the storm water enterprise such as the drainage criteria manual.
- When asked about whether there are any risks to the timeline because of permitting and acquisition, Mr Riley responded that they are not seeing any significant risks, but there may be scheduling delays. The project is trying to stay away from eminent domain. The intention is to use easements for pipelines and purchase key sites from land owners.
- After dredging the levees, the intention is to either install collectors or continue to dredge periodically as needed. They are still in the process of identifying locations for collectors. The project does not intend to install collectors too far upstream but to remain focused on the levee area. Member Henrichs suggested that collectors and detention ponds along the reach of Fountain Creek might help defend against flooding.
- Mr Maroney commented that the COE study identified the need to dredge the levees over time. There will be a need for continuous/periodic sediment removal. Testing of sediment for contaminants such as metals will help determine whether dredging or collectors are most appropriate for sediment removal.
- Member Walker noted in regard to the demise of the Stormwater Enterprise that the development and business community wants to see the drainage manual completed.
- Member Winner inquired of Mr Riley if this project is seen as a regional opportunity. Mr Riley responded it is a regional project but it does not extend beyond Monument Hill and the Fountain Creek watershed.
- When asked if purchase of additional water is anticipated, Mr Riley responded that the SDS evaluations under NEPA were accomplished based on the existing partners water supplies.

8. Report regarding November 2009 Fountain Creek Watershed, Flood Control and Greenway District Board Meeting

The Board selected Mr Gary Barber as the interim District Manager subject to contractual agreement between the parties. The 2010 budget was approved. The Board approved continuation of the contract with THK for implementation of the Fountain Creek Corridor Master Plan.

9. Report regarding November Technical Advisory Committee Meeting

Mr Riley gave the SDS presentation to the TAC. A report was made on the Colorado Springs Storm Water Enterprise, but things have changed since the meeting. At the time, it appeared that the Enterprise would be phased out over two years. This changed this week when the City Council determined to phase it out by the end of December 2009. The drainage criteria manual, phase 1 (compilation of latest stormwater technologies) was completed. It is believed the project will continue in some form.

10. Other Business

Member Winner announced the project behind the Pueblo Wal-Mart on Fountain Creek (side detention) has been funded through the Natural Resources Conservation Service ("NRCS") by Congressional appropriation.

11. Public Comment: None

12. Executive Session (If Required): None required

13. Setting Date, Time, and Location of Next Meeting

After discussion it was agreed the CAG will meet on January 8, 2010 at 9:30am at Fountain Creek City Hall, CO.

14. Adjourn

There being no further business, the meeting adjourned at approximately 11:20pm.