

Fountain Creek Watershed District Board
Citizens Advisory Group
Meeting Minutes
May 14, 2010

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

1. Call to Order and Introductions

The May 14, 2010, meeting of the Fountain Creek Watershed Citizens Advisory Group (“CAG”) was called to order by Chairperson, Ms Ferris Frost, at approximately 9:30am. In attendance were the following designated members of the CAG:

Ferris Frost – Chairperson	David Kinnischtzke
Tom Evans – Vice Chairperson	Ross Vincent
Irene Kornelly	Richard Skorman
Terry Hart	Eva Montoya
Mary Barber	Carol Baker
Dennis Maroney	

Members not present:

Kevin Walker	Chris Yuan-Farrell
Tom Ready	Dan Henrichs
Jay Winner	Jack Johnston

Also present were Mr Gary Barber, Executive Director; Mr Cole Emmons, El Paso County Attorney; and members of the public.

A quorum was noted at approximately 0935.

2. Approve Agenda of May 14, 2010

Upon motion duly made, seconded and unanimously carried, the agenda for the May 14, 2010 meeting was approved as amended. The bylaws action item was moved up on the agenda after the Technical Advisory Committee (“TAC”) report.

3. Approve Minutes of Prior Meeting(s)

Upon motion duly made, seconded and unanimously carried, the minutes of the March 12, 2010 meeting were approved.

4. Report – Governing Board meeting in Manitou Springs, Colorado

Mr Gary Barber reported on the Fountain Creek Watershed, Flood Control and Greenway District (“District”) Board:

-The Memorandum of Agreement (“MOA”) is complete making the District the coordinator for grants in the city and county of Pueblo.

- Palmer Land Trust made a presentation.
- Discussed the bylaws.
- Toured the Manitou Springs Rainbow Falls site.

5. Report - Technical Advisory Committee Meeting

Mr Dennis Maroney reported and the members discussed/acted on the following:

Bylaws and recommendations: The TAC recommended some slight revisions which are in the version before the CAG today.

The Fountain Creek Federal Emergency Management Agency (“FEMA”) hydrology report: The report will be used for floodplain mapping in Pueblo. The 100-year floodplain is different than other studies.

- Floodplain will be narrower in two places, one in El Paso Co, the other in Pueblo Co.
- There will be a 90 day comment period after the preliminary maps are published.
- Existing maps use a higher peak flow.

The new floodplain regulations under consideration by the Colorado Water Conservation Board (“CWCB”): Critical facilities will be regulated in the 500-year floodplain expanded from the 100-year floodplain. There is a wastewater treatment plant exception. The final rule is expected in November 2010. The FEMA maps will be used for determining the 500-year designation. Mr Maroney will make the draft regulations available. Mr Emmons recommended we begin coordination of comments from the Board. Mr Emmons indicated a resolution would be the likely mechanism for communicating consolidated CAG, TAC and Board comments with the CWCB.

Differences in the previous and current FEMA hydrology report are based on gauging data rather than modeling data. Maps for Monument and upstream of Manitou show the most significant changes. Preliminary FEMA maps to be available in November 2010 for Pueblo with no date announced for El Paso County. Mr Emmons suggested the Board may want to lobby at the Federal level via other entities such as Colorado Springs Utilities, city or county of Pueblo or others. Mr Maroney recommended the Board request a presentation by FEMA on their report. Mr Maroney and Mr Barber will work together on a work session for the Board, TAC and CAG with a FEMA presentation. Mr Barber also suggested the CAG may wish to have a presentation at a future meeting on the U.S. Army Corps of Engineers (“ACOE”) study so that we would be aware of the differences between the FEMA and ACOE reports.

6. District bylaws: Review Gary Barber update of policies and bylaws

Mr Gary Barber framed the District’s review of the draft bylaws. The Intergovernmental Agreement (“IGA”) exhibits for the CAG and TAC were eliminated and the information incorporated into the bylaws. Some procedural commonalities for both groups were also integrated into the bylaws. The TAC reviewed the Board’s draft bylaws and provided their comments, which have been included. He hopes to take the CAG recommendations to the Board for their meeting next Friday and get a final approval on the bylaws.

Mr Barber, when asked what the TAC comments pertained to, stated the TAC discussed the issue of what constitutes a quorum. They will use simple majority voting. Also, the articles include that if you miss three consecutive meetings you can be recommended for removal even if excused.

Mr Emmons, who prepared the draft bylaws, summarized each section for the CAG. A lot of language came from the legislation. Some of it consists of typical bylaws criteria. Mr Emmons noted that articles on conflicts of interest apply also to the CAG. Fiscal, eminent domain and annexation decisions must be made by a super majority of the appointed Board members as specified in the bylaws. The Board will rotate officers annually between El Paso and Pueblo County; this is not applicable to the TAC and the CAG. The bylaws allow a quorum present by telephone with provision of public notice in accordance with the open meetings law and telecommunication facilities so that everyone can hear the proceedings. Mr Hart recommended adding a provision concerning access to the same evidence by those on the phone, which Mr Emmons agreed would be good.

Mr Emmons reviewed in more detail Article VIII which applies to the CAG. Article VIII specifies that the CAG derives its authority from the Board. The CAG is an advisory body that gives advice and makes recommendations to the Board on the management of the watershed. The Board may choose to accept, reject or modify the body's recommendations. Additional appointments, policy statements or resolutions may be made by the Board as deemed appropriate. Article VIII incorporates the IGA exhibit language specific to the CAG and includes other elements included by Mr Emmons. The CAG is the communicator/educator group, and the Board also wishes to hear from the CAG on technical issues. Membership is determined by the Board. The legislature gave the Board discretion over establishing the TAC and CAG. Mr Kinnischtzke commented that terms such as "direction", "as directed", and "as may be directed" by the Board, as used in Article VIII.B., concern him. Mr Emmons commented that the Board, especially Vice Mayor Small, wants input from citizens. It is up to the Board to decide the input it wants from the CAG. Items of interest to the District may trickle up from the TAC or CAG or the Board may give direction to its advisory bodies as to the input it wants. CAG members are appointed to serve for one year at the Board's annual meeting; members may be reappointed to an additional one-year term and there is no limit on the number of successive terms a member may serve. The CAG members serve at the pleasure of the Board, and a member may be removed at the discretion of the Board or for cause. The Citizen Director will come from the CAG; the term of the Director is pursuant to the legislation (two years and may serve successive terms).

Per Mr Emmons request, Ms Frost asked for discussion and recommendations regarding Article VIII:

Article VIII.E. Citizen Director – Mr Skorman (current Citizen Director) pointed out the inability of the Citizen Director to be an officer (Chairperson or Vice Chairperson) of the Board (by policy). This means the potential exists for executive decisions to be made without CAG/citizen input. Mr Hart noted the Citizen Director represents all citizens in the District which may be important to consider in sustaining the regional approach of the District. Mr Barber stated the intention of the statute is that the Board be comprised of elected officials rather than appointees so that public meetings are required for accountability to the public. Pursuant to Article VIII.E., Citizen Director, and Article V.B. Rotation of Officers, Director Skorman received consensus from the members to mention the CAG's concern and discussion to the Board, but no motions or recommendations were made.

Article VIII.D. Term – The CAG discussed the annual appointment or reappointment of members for one-year terms in light of the CAG's recommendation to the Board in 2009 to stagger half of the appointments for continuity. The Board seemed to accept this recommendation in that some appointments made in 2010 were for two years. Mr Emmons stated that the term section was drafted to be as simple as possible. As members may serve successive additional terms,

continuity would not be a concerning factor. A few members liked the idea of including in the bylaws staggered and/or two year term appointments. Most felt that staggering is a good notion, but it need not be spelled out in the bylaws. ***Upon motion duly made, seconded, discussed and carried (8 For, 3 Against), the CAG recommendation to the Board to leave the paragraph as stated in the proposed bylaws was approved.***

Mr Vincent initiated a discussion of CAG member alternates. Mr Emmons did not have any understanding that there would be alternates for the CAG. The Board would have to appoint them to the committee. Alternates would not be necessary unless you are a final decision-making body where you have to have someone from your entity there to vote on final decisions. If alternates are desired, the discussion can go forward. The discussion concluded with no action taken. Alternates are not necessary as we are advisory, but citizens are welcome to attend, make comment at the appropriate time, and relay information to the absent member. They won't participate in the discussion or decision making.

VIII.C. Membership –Ms Frost raised a concern about wording of “The CAG may (rather than “will” or “shall”) recommend....” Mr Emmons noted that the CAG may make recommendations to the Board as to who they believe are the appropriate interests/organizations to be represented. Mr Hart clarified that making a recommendation is a permissive power; we may make a recommendation or alternatively choose not to do so. The Board ultimately accepts or rejects the recommendation. The discussion concluded with no action taken.

Ms Frost raised a question as to CAG participation on the annual audit committee, which was contained in a previous draft of the bylaws. Mr Emmons stated that the Board by statute has the ability to have an audit or not. An audit is probably going to be done by an accounting firm and not internal by committee. Mr Barber clarified that audit requirements are regulated by statute now that the District has been formed (reference Article XI of the draft bylaws). The discussion concluded with no action.

Article VIII.B. Purpose and Responsibility – Ms Frost requested a grammatical change which was accepted as: “...provide an opportunity for the cooperative exchange of information regarding emerging issues...”

Article VIII.E. Citizen Director – Ms Frost asked for clarification about the involvement of the Pueblo and El Paso County Boards of County Commissioners. Mr Emmons clarified that the Commissioners make the Citizen Director appointment by statute.

Article IX pertains to TAC and CAG Procedures with discussion items as follows.

Article IX.D. Notice of Meetings – Mr Vincent stated he remains concerned about the article pertaining to public notice as not sufficient for obtaining citizen input. Mr Emmons stated he would recommend including only what is required by law because of potential liabilities. If the Board wants to provide additional notice, they can do so. He would not recommend including it in a governing instrument like the bylaws. Mr Hart suggested an alternative of including a preference for a longer notice period but in no circumstance less than 24 hours prior to the time of the meeting as required by statute. It was pointed out that our practice has been to make notice a week in advance, but some members wanted to see a preference in the bylaws. Some members expressed concern that "at least 24 hours" public notice was not sufficient to notify and provide opportunity for public input/comment on topics. ***Upon motion duly made, seconded, amended and discussed, and carried (9 For, 1 Against Motion), the CAG recommendation to the Board***

to include a preference for a minimum of one week public notice but not less than 24 hours for regular meetings of the CAG, TAC and Board was approved.

Article IX. H. Attendance/Dismissal for TAC – CAG members agreed that the attendance/dismissal of CAG members should be the same as for the TAC. *Upon motion duly made, seconded, and unanimously carried, the CAG recommendation to the Board to also include the CAG in this paragraph was approved.*

Mr Emmons highlighted two sections of the bylaws:

-Article IX.F.5 *Pro tem* Chairperson – This paragraph allows that if a quorum is present but neither the Chairperson nor Vice Chairperson is at the meeting, the members shall select one of the members by vote to act as Chairperson *pro tem* for that meeting.

-Article IX.G. Conflicts of Interest – The same conflict of interest provisions (Article IV.H.) apply to the TAC and CAG as well as the Board.

7. GIS Presentation: Chris Yuan-Farrell - This item was postponed to a future meeting.

8. Land Management software application: Ben Davenport, Davenport Group

The CAG received a presentation by Mr Ben Davenport on a land management software application utilizing a Geographic Information System (“GIS”). The benefits of such an application and modules include mapping of infrastructure such as manholes; maintaining information at one’s fingertips; planning projects and development reviews; and collaboration. Members considered such an application may be useful to the District at some future point in time.

9. List of potential Stakeholders for presentations to the CAG: Tom Evans - This item was postponed to a future meeting.

10. Strategic/Master Plan project priorities: Discussion of Carol Baker update - This item was postponed to a future meeting.

11. Other Business:

-Ms Montoya announced the tour in conjunction with the June 11 CAG meeting in Pueblo and showed a map of the tour area. Lunch is on your own. Bicycling and walking options are available; golf carts are available by contacting Ms Montoya. The members agreed to set 12:30pm as the start time for the tour. Please let Ms Montoya know if you will be attending and what you will need. The Pueblo Chieftain has been giving Fountain Creek projects a lot of publicity.

-Ms Montoya announced that THK developed a worksheet for kids in the classroom; a copy was passed around. She also distributed a “Healthy Rivers – Healthy Communities” sticker from the Fountain Creek Foundation.

-Ms Baker summarized the Outreach Committee meeting earlier in the day. The group discussed the Fountain Creek Vision Task Force goals and U.S. Army Corps of Engineers study to better understand what should be priority. They also reviewed some of the events coming up and how to get the word out to the public. The Committee will be meeting every two weeks for the time being. Ms Baker will send Ms Frost event information for dissemination.

-Ms Frost showed photographs from the Board's tour of Rainbow Falls, Manitou Springs and the trout restoration project. Mr Evans summarized the tour by the Board. The county now owns the area and would like to turn it into a park. Future plans will be developed to address how to restore and maintain the location. The banks need to be stabilized, which is in the top 14 of projects in the ACOE study that should be done to control erosion in the Fountain Creek.

12. Public Comment: None

13. Executive Session (If Required): None

14. Setting Date, Time, and Location of Next Meeting:

The next regularly scheduled CAG meeting will be June 11, 2010 at 9:30am at Pueblo City Council Chambers. The Pueblo Confluence Park tour will commence at 12:30.

15. Adjourn: The meeting was adjourned at approximately 11:45am.