

**Fountain Creek Watershed, Flood Control, and Greenway District  
Board of Directors  
MEETING MINUTES  
February 26, 2016**

This 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**

Chair Hart called the meeting to order at 1:01 pm. In attendance were the following duly designated members of the Board of Directors of the District:

**Name:**

Richard Skorman	CAG Liaison
Dennis Hisey	El Paso County
Jack Goble	Lower Arkansas
Larry Atencio	City of Pueblo
Terry Hart	Pueblo County
Greg Lauer	City of Fountain
Jane Rhodes	Fountain Creek Land Owner
Gill Gaebler	City of Colorado Springs
Coreen Toll	EPC Small Municipalities

A quorum was noted. Also present was Larry Small, Executive Director and Cole Emmons, Attorney..

**2. APPROVAL OF AGENDA**

**Upon motion duly made, seconded, and unanimously carried, the agenda was approved.**

**3. APPROVAL OF THE MINUTES OF THE JANUARY 22, 2016 ANNUAL BOARD MEETING AND THE JANUARY 22, 2016 REGULAR BOARD MEETING**

**Upon motion duly made, seconded, and unanimously carried, the minutes of both meetings were approved.**

**4. INTRODUCTION OF GUESTS**

Chair Hart asked the guests in the audience to introduce themselves.

**5. PRESENTATION - TURKEY CREEK CONSERVATION DISTRICT RESOLUTION, BILL ALT**

Bill Alt presented the Turkey Creek Conservation District Resolution regarding mitigation funding for the Fountain Creek as part of Pueblo County 1041 Permit. The resolution requested that control of velocity in tributaries flowing into Fountain Creek be slowed by flood control

detention dams. The resolution requested that all new development in El Paso County be required, by existing or new regulations, to build and maintain detention ponds sufficient to restrict flows equal to or less than historic flows. The resolution requested that the mission of the Fountain Creek Watershed, Flood Control and Greenway District be revised to include and manage a noxious weed control program. The resolution requested that the District not fund or perform construction, or repair wetlands, trails or other cosmetic projects until successful bank stabilization, erosion and flood control projects have been completed. The resolution stated that the Turkey Creek District considers dredging operations to protect structures a sound practice. However, these projects must be limited to immediate threats so that dredging costs do not consume a disproportionate portion of the funds provided for mitigation. The resolution requested that Teller, El Paso and Pueblo Counties inspect and regulate management of noxious weeds in the Fountain Creek Watershed as prescribed by the Colorado Noxious Weed Act, Article 35-5.5-101.

Mr. Alt also showed a series of photographs illustrating high water on Fountain Creek in the vicinity of his property.

Director Hisey asked Mr. Alt if his resolution should not also apply to Pueblo and Pueblo County developers being required to build and maintain detention ponds sufficient to restrict flows into Fountain Creek. Mr. Alt agreed that it should. Mr. Hisey also pointed out that all entities along Fountain Creek had been affected by the Waldo Canyon Fire and that flows and debris had been accelerated by the fire far above what recent development had produced.

Director Atencio stated that he did not know if detention ponds would solve the problem of flooding in Pueblo but was convinced that a dam on Fountain Creek would. He stated he believes a dam is the only solution. He stated that he did not believe that detention ponds would harm downstream water rights and that the City of Pueblo did not own any water rights on Fountain Creek.

Chair Hart thanked Mr. Alt for his presentation and agreed with Director Hisey concerning the impact of the Waldo Canyon Fire. He stated that the District was working hard to accomplish its statutory mission and would make more progress when funding became available.

## **6. BOARD MEMBER COMMENTS - None**

## **7. PUBLIC COMMENT**

Garry Rapp, representing the Recycling Coalition of Colorado Springs, gave the Board a copy of an article from Planning Matters, 2016 volume 1, issue 1 titled Fountain Creek: did the planning process fail?, written by Ken Wright and Ian Paton, Wright Water Engineering. Mr. Rapp discussed the article with the Board and pointed out that detention and infiltration must be considered in Stormwater management planning.

Deborah Stout-Meininger, an El Paso County citizen distributed articles from the Colorado Springs Business Journal and the Fountain Valley News concerning contaminants in Fountain Creek. She pointed out that two contaminants are also associated with fracking and there had been fracking going on in Eastern El Paso County which she believed contributed to the contaminants in Fountain Creek.

## **8. REGULAR REPORTS**

### **8. A TECHNICAL ADVISORY COMMITTEE REPORT**

Dennis Maroney reported that the TAC met February 3, 2016 at 1:00 pm at the Fountain City Hall. He reported that the TAC discussed having presentations at future meetings about past Fountain Creek Demonstration projects to review lessons learned from the projects. He reported that TAC received presentations on the Colorado Springs Utilities Land Use Application and the Excel Energy Land Use application and took action on the applications.

The next TAC meeting will be March 2, 2016 at 1:00 pm at the Fountain City Hall.

### **8. B CITIZENS ADVISORY GROUP REPORT**

Richard Skorman reported that the CAG met February 12, 2016 at 9:30 am at Fountain City Hall. He reported that CAG received presentations on the Colorado Springs Utilities Land Use Application and the Excel Energy Land Use application and took action on the applications.

The next CAG meeting will be March 11, 2016 at 9:30 am at the Fountain City Hall.

### **8. C FINANCIAL REPORT**

Larry Small presented the Fountain Creek District Balance Sheet as of January 31, 2016. The District had total assets of \$295,961.87 and no liabilities. Profit and Loss Budget vs. Actual report for the period January 1, 2016 through January 31, 2016 indicated total revenues were \$23,140.68 and total expenses were \$45,072.35 for a net negative income of \$21,931.67 resulting in a District total equity of \$295,961.87. The General Fund cash on hand as of January 31, 2016 was \$161,318 and the Restricted Fund cash on hand was \$75,420. The total cash on hand was \$236,738.

### **8. D LEGAL REPORT - None**

### **8. E EXECUTIVE DIRECTOR'S REPORT**

Larry Small reported that DOLA was behind in payments of reimbursement requests for the monument Creek Watershed Master Plan contract. He reported that Request #1 submitted 10/23/2015 was paid on 12/23/2015; that request #2 submitted on 11/24/2015 was paid on 12/23/2015; and request #3, submitted 12/12/2015 and request #4 submitted 1/23/2016 are unpaid and request #5 would be submitted 2/26/2016. He reported that including request #5 the outstanding balance due would be \$75,372,65. He reported that he had a meeting scheduled with Tim Katers, DOLA Program Manager, on March 3, 2016 to go over the payment requests to resolve any questions Tim may have. He reported that DOLA was inconsistent and arbitrary in their payment rules and our contract was not the only contract having trouble getting paid. He stated that if the issues were not resolved following the meeting with Katers he would request a meeting of the District's Executive Committee to develop a plan to move this issue up the DOLA chain. Chair Hart asked if the Board would authorize the Executive Committee to meet and take

action if necessary before the next Board meeting and have the actions ratified at the next Board meeting.

**Upon motion duly made, seconded, and unanimously carried, the Executive Committee was authorized, if necessary, to meet and take any necessary action to resolve the payment issue subject to ratification of such action at the next Board meeting.**

Larry Small reported that he attended the Colorado Springs Stormwater presentation to the Pueblo Board of County Commissioners on January 25, 2016. He reported that he met with representatives of the Arkansas Basin Collaborative on January 26, 2016 to discuss working relations between the district and the Collaborative. He reported that he met with Wright Water Engineering in Denver on January 28, 2016 to discuss District watershed projects and stormwater. He reported that he attended the Arkansas Basin Roundtable meeting on February 10, 2016 where the District was voted to become a voting member of the Roundtable. He stated that he participated in the meeting as the District's voting member but the District would have to officially designate the voting member for future meetings. He reported that he was serving as the Stormwater representative on the Manitou Springs Hazard Mitigation Plan committee helping develop Manitou's Hazard Mitigation Plan. He reported that he attended the PPACG Joint Land Use Survey Policy Committee meeting on February 25, 2016 and gave a presentation on the monument Creek watershed Restoration master Plan project. He reported that the JLUSPC voted to adopt the master plan as the Joint Land Use Stormwater Plan for Monument Creek.

## **8. F MONETARY MITIGATION FUND ADVISORY COMMITTEE REPORT**

Mark Shea reported that the Monetary Mitigation Fund Advisory Committee met February 18, 2016 at 1:00 pm at the Pueblo County Public Works Facility. He reported that the committee continued to work on project prioritization criteria and work flow.

The next Committee meeting will be March 17, 2016, 1:00 pm at the Pueblo County Public Works Facility, 33601 United Way, Pueblo, Co.

**9. OLD BUSINESS (Board Action May Be Required) - None**

**10. NEW BUSINESS (Board Action Required)**

### **10. A PUBLIC HEARING ON COLORADO SPRINGS UTILITIES LAND USE APPLICATION**

Larry Small stated that the public hearing notice had been published in the Fountain Valley News on February 10, 2016 as required by statute, that all application materials had been delivered to the District and were on file and that presentations had been given by the applicant to the TAC and CAG for their consideration. Chair Hart declared the public hearing opened.

Brian McCormick, Colorado Springs Utilities Project Manager stated that the project was located on the west bank of Fountain Creek on Clear Spring Ranch south of the City of Fountain, CO

and north of the Owen & Hall diversion near exit 123 off I-25. He stated the primary goal of this Project is to install 1200 feet of bank stabilization to protect an existing 14-inch sanitary sewer sludge line running adjacent to the large cut bank on the north end of the CSR property. The construction will involve sheet pile driving, builder stacking and placement, concrete pumping, and general excavation. Temporary access will be necessary within the stretch of Fountain Creek. A permanent access road will be constructed above the existing cut bank. The installation of bank protection will not result in an increase to the FIS flood elevation. The project will likely require temporary rerouting of the main channel, as well as significant dewatering of the bank protection construction area. The impacts will be temporary. The contractor will be responsible for the use of best management practices to minimize surface water impacts. The contractor will be required to control dewatering discharge and provide temporary bank stabilization to minimize sediment loading. The rerouting of the main channel will minimize the impacts to downstream land owners. There is very little vegetation or habitat in the area of the cutbank toe. The overland grading above the cut bank will be minimized to the greatest extent possible and revegetated with native seeding. The bank protection will stop the movement of the cutbank and eliminate the sediment supply from the area. The constriction of the access roadway may serve as a link section for the Regional Trail system in the future. The bank protection will stop the movement of the cutbank, eliminate the sediment supply from the area and minimize the sediment deposition downstream. The bank protection will stop the movement of the cutbank and eliminate the sediment supply from the area. All County, State and Federal permits have been acquired.

Chair Hart asked if any analysis and engineering had been done to determine if the channel could be straightened to eliminate the 90 degree bend. Mr. McCormick responded that an analysis of that alternative had been done but because all the property to the east was residential property with dwellings and they would have to be impacted with that option. He stated that the need to approach the Owens & Hall diversion downstream at a right angle would also make changing the channel difficult. He also stated that changing the channel would not have the desired impact on sediment transport.

Chair Hart asked if anyone from the public would like to comment on this application. There were no comments from the public.

Chair Hart asked the TAC to make its recommendation on the application. Dennis Maroney responded that the TAC had voted to support the application as presented with no conditions.

Chair Hart asked the CAG to make its recommendation on the application. Richard Skorman responded that the CAC had voted to support the application as presented with no conditions.

Chair Hart closed the public hearing.

Chair hart asked what the pleasure of the Board is.

**Motion made by Director Atencio and seconded by Director Hisey to approve the Land Use Application by Colorado Springs Utilities for the Clear Spring Ranch Sludgeline Bank**

**Protection Project located within the Fountain Creek Corridor as presented. Motion carried by an 8 - 0 vote.**

**10. B RESOLUTION NO. 2016-01-LAND USE APPROVING/RATIFYING THE DISTRICT'S BOARD'S APPROVAL OF THE LAND USE APPLICATION BY COLORADO SPRINGS UTILITIES FOR THE CLEAR SPRING RANCH SLUDGELINE BANK PROTECTION PROJECT LOCATED WITHIN THE FOUNTAIN CREEK CORRIDOR**

Larry Small presented Resolution 2016-01 stating that the Public Hearing for Application had been advertised as required by law, that Public Hearings had been held by the TAC, the CAG and the Board, that the TAC and CAG had recommended to the Board approval of the Application by unanimous vote of both bodies and that the board had voted unanimously on February 26, 2016 to approve the Application.

**Upon motion duly made, seconded, and unanimously carried, Resolution 2016-01 was approved confirming the Board's February 26, 2016 CSU Land Use Application decision for the Clear Spring Ranch Sludgeline Bank Protection Project.**

**10. C PUBLIC HEARING ON EXCEL ENERGY LAND USE APPLICATION**

Larry Small stated that the public hearing notice had been published in the Colorado Tribune on February 6, 2016 as required by statute, that all application materials had been delivered to the District and were on file and that presentations had been given by the applicant to the TAC and CAG for their consideration. Chair Hart declared the public hearing opened.

Danny Pierson, Excel Energy, stated that the project is located near the El Paso/Pueblo Counties line in unincorporated Pueblo County, approximately 4600 feet east of I-25 mile marker 116. Lat/Long: 38.5127, -104.6119. This project involves the removal and replacement of existing structures on the 5411 and 5413 transmission lines. One structure on each line will be removed and replaced (two structures in total). The structures are currently located on the east bank of Fountain Creek. These structures are at risk of damage from future high flows due to the east bank's movement east. Xcel is proposing to relocate these structures to the west side of Fountain Creek. Both the existing and proposed structure locations are within the floodplain. The transmission line traverses open, undeveloped space in the project area. The project itself is a public utility project, being managed by the Public Service Company of Colorado, and Xcel Energy Company. There will be no new permanent roads associated with the project. Temporary access for construction will be gained by the existing two-track dirt access routes used to patrol and maintain the transmission lines. The existing structures will be accessed via approximately 4,000 lineal feet of two-track leading east to Overton Rd. The proposed new structures will be accessed via approximately 2,000 lineal feet of two-track leading west to County Line Rd. Changes to the floodplain are not anticipated with this project. Any potential change in base flood elevation caused by the new structures will be off-set by the removal of the existing structures. There are no planned changes to surface grading or drainage conveyances. Grades may be temporarily modified as part of the construction process, but will be returned to pre-construction condition upon project completion. The structure change within the floodplain, and moving it further way from the floodway, will be very minor and local. Temporary water quality impacts from the proposed project are expected to be minimal. Sediment and erosion control BMPs will be utilized to protect against temporary construction impacts, and disturbed areas will be revegetated to existing conditions upon project completion. The

removal of the existing structures and installation of new structures are not expected to contribute to permanent water quality impacts. All material removed from the holes drilled for placement of the new structures will be hauled away from the site and properly disposed of. No excavated materials will be spread on the floodplain surface. The structures access routes are in the upland area, and are vegetated with various types of grass. The structures themselves are located in the riparian corridor of Fountain Creek. Typical riparian vegetation such as brush, trees, and grasses surround the structures. The project area likely contains typical riparian wildlife. Temporary impacts to the site vegetation may occur during the construction process. This will be mitigated through the use of temporary erosion and sediment control BMPs, and revegetation efforts (e.g. seeding and mulching) upon completion of disturbance. Wildlife habitat is not expected to be permanently impacted. The project is a proactive replacement of structures that could potentially be damaged by scour or high flows in the future. The repair of damaged structures would likely be more intrusive and detrimental to the ecosystem health. This project is not expected to permanently impact erosion, sedimentation, flooding or water quality as the project is the replacement of existing structures within the floodplain. All required County, State and Federal permits have been obtained.

Chair Hart asked if anyone from the public would like to comment on this application. There were no comments from the public.

Chair hart asked if there were any comments or questions from the Board members. Director Rhodes asked how the dirt from the drillings would be disposed of. Mr. Pierson stated that land owners would be contacted to see if they would like to have the dirt. If so, the dirt would be delivered to the landowner's property and dumped. It would be the property owner's responsibility to use the dirt. If no one wanted the dirt it would be trucked to a land fill.

Chair Hart asked the TAC to make its recommendation on the application. Dennis Maroney responded that the TAC had voted to support the application as presented with no conditions.

Chair Hart asked the CAG to make its recommendation on the application. Richard Skorman responded that the CAC had voted to support the application as presented with no conditions.

Chair Hart closed the public hearing.

Chair hart asked what the pleasure of the Board is.

**Motion made by Director Hisey and seconded by Director Skorman to approve the Land Use Application by Excel Energy for the Transmission Line Pole Relocation Project located within the Fountain Creek Corridor as presented. Motion carried by an 8 - 0 vote.**

**10. D RESOLUTION NO. 2016-02-LAND USE APPROVING/RATIFYING THE DISTRICT'S BOARD'S APPROVAL OF THE LAND USE APPLICATION BY EXCEL ENERGY FOR THE TRANSMISSION LINE POLE RELOCATION PROJECT LOCATED WITHIN THE FOUNTAIN CREEK CORRIDOR**

Larry Small presented Resolution 2016-02 stating that the Public Hearing for Application had been advertised as required by law, that Public Hearings had been held by the TAC, the CAG and the Board, that the TAC and CAG had recommended to the Board approval of the

Application by unanimous vote of both bodies and that the Board had voted unanimously on February 26, 2016 to approve the Application.

**Upon motion duly made, seconded, and unanimously carried, Resolution 2016-02 was approved confirming the Board's February 26, 2016 Excel Energy Land Use Application decision for the Transmission Line Pole Relocation Project.**

#### **10. E CHEYENNE BOULEVARD DRAINAGE IMPROVEMENT PROJECT CONTRACT**

Larry Small stated that he had received the contract for the Cheyenne Boulevard Drainage Improvement Project from the State on January 19, 2016 and had completed a review of the contract. He stated the Grant application was submitted on March 15, 2015 with current constructions costs. He stated that in the year since application, constructions costs had increased by 8%. He stated that the contract did not incorporate the grant application Statement of Work, budget and schedule but only gave a general description of the project. He stated that there was construction requirements in the contract that were not included in the application and that those requirements would add cost to construction. For those reasons, he believed that the project could not be performed for the contract price. He also reported that payments under the Monument Creek Watershed Master Plan contract with DOLA were not being made in a timely fashion, in fact no payments had been received since November 2015 while there were three reimbursement request outstanding since December 2015. He stated that the District did not have the cash to support this project if payments were not received in a timely fashion. Because of all those issues with the contract and DOLA, Mr. Small recommended that the Board not accept the contract.

**Upon motion duly made, seconded, and unanimously carried, the Board voted to not accept the contract.**

#### **10. F APPOINTMENT OF LARRY SMALL AS THE DISTRICT REPRESENTATIVE TO THE ARKANSAS BASIN ROUNDTABLE**

Larry Small stated that the Board needed to officially appoint a representative to the District's voting seat on the Arkansas Basin Roundtable. He stated that any board member could serve or that he, as Executive Director could serve. He stated that he was willing to serve and represent the district at the Roundtable meetings.

**Upon motion duly made, seconded, and unanimously carried, Larry Small was appointed the District's representative to the Arkansas Basin Roundtable.**

#### **11. OTHER BUSINESS**

## 11. A APPROVAL OF INVOICES

Presented for Payment  
2/26/2016

General Fund				
Vendor	Date	Num	Amount	For
Larry Small				
	02/11/16	150	\$2,500.00	Monument Ck Grant Proj Mgmt
Matrix Design Group				
	02/09/16	17814	\$38,683.85	Monument Creek MP Engineering
Colorado Tribune				
	02/06/16		\$40.60	Xcell Land Use Public Notice
Shopper Press				
	02/12/16	1339	\$28.08	CSU Land Use Public Notice
Ark River Basin Water Forum				
	02/02/16		\$500.00	Water Forum Sponsorship
Friends of El Paso Cty Nature Ctr				
	2/10/216		\$183.21	CAG Outreach Materials
<b>TOTAL - General Fund</b>			<b>\$41,935.74</b>	

Master Plan Fund				
Vendor	Date	Num	Amount	For
Berg,Hill,Greenleaf,Ruscitti LLP				
	02/07/16	75916	\$69.00	Greenview Trust Due Diligence
<b>TOTAL - Master Plan Fund</b>			<b>\$69.00</b>	

Upon motion duly made, seconded, and unanimously carried, the invoices were approved for payment as presented.

## 11. B DISCUSSION ON FUNDING THE DISTRICT

Chair Hart stated that he asked for this item to be placed on the agenda to begin a serious discussion of finding a way to fund the District with sustainable annual funding. He stated that Pueblo County discussions with Colorado Springs concerning the Stormwater IGA and SDS have been very fruitful. He stated that progress is being made. He stated that part of the discussions have to do with sustaining the District but we need to have all nine member governments at the table because funding the District is not Colorado Springs responsibility alone. He stated that we have a very aggressive budget for 2016 to allow the District to move forward on projects that will benefit Fountain Creek. He stated that we cannot continue to limp along. He stated that we are significantly off our 2016 budget objectives. He stated that we need a sound, supportable formula to allow each member government to pay its fair share to support the District until we have our mil levy in place. Director Rhodes asked if we can ask our member governments to contribute like we did in 2013.. Chair Hart stated we could but only if we have agreements that will continue year-to-year. Director Skorman asked what is the timing for getting the IGA in place, EPA concerns resolved and the SDS monetary mitigation funds

paid. He stated that it is tough to ask member governments to fund the District from their tight budgets while these issues are open since all the governments are strapped for cash. Director Atencio stated that a Board delegation needs to visit our member governments to get buy-in or it won't work.

Larry Small presented a spread sheet depicting the 2016 Operating Fund minimum requirements. He stated that there will be \$22,411.68 revenue and \$87,439.40 expenses for the balance of 2016 leaving a deficit of \$65,027.72, based on continuing business as usual. He stated that this will not go away in future years even if the SDS monetary mitigation funds are paid since the Board has taken the position that those funds can only be used as required by the 1041 permit and not to fund the District. He stated that at a minimum, based on the 2016 budget, the District will require at least \$100,000 operating funds annually to perform its statutory mission.

Chair Hart suggested that this discussion be continued to the next meeting and asked the Executive Director to develop scenarios for determining member government sharing and present those at the next meeting along with a recap of the 2016 budget.

**12. EXECUTIVE SESSION (IF REQUIRED) - None**

**13. CONFIRM NEXT MEETING TIME AND LOCATION**

The next Board meeting will be held March 25, 2016 at 1:00 pm at City of Fountain City Hall, 116 S. Main Street, 2nd Floor, Fountain, CO 80817

**14. ADJOURN**

**Upon motion duly made, seconded, and unanimously carried, the meeting was adjourned.**