

**Fountain Creek Watershed, Flood Control and Greenway District**  
**MINUTES**  
July 31, 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 1:08 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
Gabe Ortega	City of Fountain
Larry Atencio	City of Pueblo
Max Stafford	EPC Small Municipalities
Leroy Mauch	Lower Arkansas Valley Water Conservancy District
Jane Rhodes	Pueblo City-County

Also in attendance, El Paso County Commissioner Sallie Clark. A quorum was noted.

**2. APPROVAL OF AGENDA:**

Upon motion duly made, seconded and unanimously carried, the agenda for the July 31, 2009 meeting was approved.

**3. REVIEW, RECEIVE RECOMMENDATIONS BY THE TECHNICAL ADVISORY COMMITTEE (“TAC”) AND THE CITIZENS ADVISORY GROUP (“CAG”), DISCUSSION, AND DECISIONS CONCERNING THE FOLLOWING:**

- A. Application by Becker-Johnson, Inc. on behalf of Patric J. and Christi A. Lehouillier for approval of a zoning request to Planned Unit Development (PUD) for Confluence Vista, located generally southwest of Old Pueblo Road and Valley Street, El Paso County Assessor Tax Schedule Nos. 56080-00-061 and 56080-00-062. 62 patio homes on 10.33 acres are proposed for development. A portion of the project (bank stabilization) lies within the Fountain Creek Watershed District Corridor as defined in**

**§§ 32-11.5-101, et seq., and specifically at § 32-11.5-103(9)(a), C.R.S.**

Pueblo County Attorney Dan Kogovsek explained to the Board that the Confluence Vista Project was not within the Fountain Creek “corridor” as defined by statute and therefore the Board had only advisory authority on this application. Johnnie Johnson of Becker-Johnson, Inc. outlined the Confluence Vista Project. Dave Smeserud explained the City of Fountain’s review of the project. Ken Sampley, Chairperson of the District’s TAC stated that at its July 14, 2009 meeting the TAC made a recommendation to the District Board. not to oppose the Confluence Vista zoning request. Ferris Frost, Chairperson of the District’s CAG similarly reported that at its July 10, 2009 meeting the CAG voted not to oppose the Confluence Vista re-zoning request.

Resolution No. 09-001

Following a discussion, upon motion made, duly seconded and unanimously carried, it was:

**RESOLVED** that with respect to the zoning request to Planned Unit Development (PUD) for Confluence Vista, the District is not opposed to the re-zoning request; and **FURTHER RESOLVED** that a copy of this Resolution be forwarded to the appropriate zoning, planning and elected officials of the City of Fountain, Colorado.

**B. Application by Becker-Johnson, Inc. on behalf of Patric J. and Christi A. Lehouillier for approval of an Overall Development Plan for Confluence Vista, located generally southwest of Old Pueblo Road and Valley Street, El Paso County Assessor Tax Schedule Nos. 56080-00-061 and 56080-00-062. 62 patio homes on 10.33 acres are proposed for development. A portion of the project (bank stabilization) lies within the Fountain Creek Watershed District Corridor as defined in §§ 32-11.5-101, et seq., and specifically at § 32-11.5-103(9)(a), C.R.S.**

Ken Sampley, Chairperson of the District’s TAC stated that at its July 29, 2009 meeting the TAC made four (4) recommendations to the District Board with respect to future review of the Overall Development Plan for Confluence Vista and Mr. Sampley further stated:

- A Letter of Map Revision (LOMR) was approved for the floodplain boundary change for Jimmy Camp Creek by FEMA;
- No decision has been made yet regarding where the trail should be located;
- Bank protection will just be along the east bank of Fountain Creek and would be owned and maintained by the City of Fountain;
- There will be no channel realignment; and
- The bank stabilization design needs to still go through the Corps of Engineers for a permit.

Ferris Frost, Chairperson of the District’s CAG reported that the CAG supported the four (4) conditions for approval recommended by the TAC.

Resolution No. 09-002

Following a discussion, upon motion made, duly seconded and unanimously carried, it was:

**RESOLVED** that with respect to the Overall Development Plan to Planned Unit Development (PUD) for Confluence Vista, the District is not opposed to the Overall Development Plan provided that the following four (4) items are presented to the District in the future for further review and recommendations:

- Final design of improvements, including bank stabilization and related infrastructure;
- Detailed plans to address Strategic Plan issues associated with revegetation, invasive species management and noxious weed control;
- Plans to accommodate regional trail corridors as appropriate;
- Plans to address visual impacts of the proposed retaining wall and screening between the development and creek/trail corridor.

**FURTHER RESOLVED** that a copy of this Resolution be forwarded to the appropriate zoning, planning and elected officials of the City of Fountain, Colorado.

**4. REPORT FROM TAC, DISCUSSION AND DECISIONS CONCERNING THE FOLLOWING:**

- A. Recommendation by TAC regarding appointment of additional TAC members.**
- B. Recommendation by TAC regarding the adoption of technical criteria, review structure and procedures for items to be presented for TAC consideration.**

Ken Sampley, Chairperson of the TAC reported that at its July 29, 2009 meeting the TAC discussed how to make the TAC consistent with Exhibit B of the Fountain Creek Watershed IGA and with the goals and objectives expressed by the District Board. Based on this discussion, the following changes to Exhibit B were recommended by the TAC:

- Combine the two separate technical expert categories originally designated for “Recreation/Parks” and “Open Space” into one category -- “Recreation/Parks/Open Space”;
- Two representatives should be selected for the category designated as “Federal Regulations/Military Installations,” one to represent Fort Carson and one to represent the Air Force Bases in the watershed;
- Under the category “Others as determined by the Board,” two categories were added:
  - Regional Floodplain; and
  - Wastewater/Point Sources.

A total of sixteen positions were identified to serve on the TAC. The TAC considered and developed a slate of candidates that fills fifteen of the positions. No recommendation was made for the Lower Arkansas Representative.

Upon motion duly made, seconded and unanimously carried, the following persons were appointed or reappointed to the TAC:

- Six (6) technical representatives, one (1) from each of the cities and counties and the Lower Arkansas that are represented on the Board of Directors.
  - El Paso County – Elaine Kleckner (EPC Planning Department)
  - City of Colorado Springs – Ken Sampley (CS Stormwater Enterprise)
  - City of Fountain – Duane Greenwood (City of Fountain Public Works)
  - Pueblo County – Kim Headley (Pueblo County Planning Dept)
  - City of Pueblo – Dennis Maroney (City of Pueblo Stormwater Dept)
  - Lower Arkansas Representative – Vacant
  
- Technical experts who represent specific subject areas:
  - Agriculture – Greg Lander (Natural Resource Conservation Service)
  - Recreation/Parks/Open Space – Jim Houk (Consultant)
  - Water Quality – Nancy Keller (City of Pueblo Wastewater Department)
  - Ecosystem and Wetland Restoration/Preservation – Jim McGannon (Consultant)
  - Municipal Water – Carol Baker (Colorado Springs Utilities)
  - Watershed Perspective – Rich Muzzy (PPACG)
  - Federal Regulations/Military Installations
    - Fort Carson – Vacant
    - Air Force – Matt Lewis (U.S. Air Force Academy)
  - Others as determined by the Board
    - Regional Floodplain – Tim Condit (Regional Building Dept.)
    - Wastewater/Point Sources – Jim Heckman (Fountain Sanitation District)

Ken Sampley further reported that the TAC in the future would make recommendations to the District Board regarding the adoption of technical criteria, review structure and procedures for land use items to be presented for TAC consideration

## **5. REPORT FROM CAG, DISCUSSION AND DECISIONS CONCERNING THE FOLLOWING:**

- A. Recommendation by CAG regarding appointment of 9th District Board member.**
- B. Discussion regarding review structure and procedures for items to be presented for CAG consideration**

Ferris Frost, Chairperson of the CAG reported that the following persons were recommended by the CAG as potential nominees for the ninth director position on the District Board:

Dan Henrich  
Tom Ready  
Ross Vincent

Irene Kornelly  
David Kinnischtzke  
Jack Johnston  
Thomas Evans  
Jay Winner  
Ferris Frost

Ferris Frost further reported that the CAG in the future would make recommendations to the District Board regarding the adoption of a review structure and procedures for land use items to be presented for CAG consideration

**6. DISCUSSION OF AND DECISIONS REGARDING RECEIPT OF \$100,000.00 FROM THE SDS APPLICANTS FOR STUDIES CONCERNING THE CONSTRUCTION OF FLOOD CONTROL AND SEDIMENT CONTROL FACILITIES.**

Following a discussion, upon motion duly made, seconded and unanimously carried, Dan Kogovsek was instructed to:

- a. Take the steps necessary to have said SDS 1041 Permit funds transferred to the District; and
- b. Open appropriate bank accounts in the name of the District in an FDIC insured bank in Pueblo County and obtain the most favorable rate of return for the District; and
- c. Take steps to assure that all disbursements from District's accounts require two signatures from either the District's Chairman, Vice-Chairman or Treasurer.

**7. DISCUSSION OF INTERIM FUNDING OF THE DISTRICT**

The Board discussed the necessity of immediate funding for the District to cover administrative expenses. No final decisions were made concerning interim funding.

**8. DISCUSSION OF DRAFT OF PROPOSED INTERGOVERNMENTAL AGREEMENT ("IGA") WITH THE LOWER ARKANSAS VALLEY WATER CONSERVANCY DISTRICT AND THE CITY OF COLORADO SPRINGS**

Following a discussion, upon motion duly made, seconded and unanimously carried, the Board expressed its support for entering into an interim funding IGA with the Lower Arkansas Valley Water Conservancy District and the City of Colorado Springs and directed the District's acting attorneys to present an IGA for review and approval at the next meeting of the Board.

**9. DISCUSSION OF SELECTION OF AN EXECUTIVE DIRECTOR**

Upon motion duly made, seconded and unanimously carried, this agenda item was tabled.

**10. STATUS / SCHEDULING HEARING ON LaFARGE / SUNDANCE RESOURCES LAND USE APPLICATIONS**

Upon motion duly made, seconded and unanimously carried, a hearing on the LaFarge / Sundance Resources land use applications was scheduled for 1:00 p.m. on Friday, August 28, 2008 to be held at City Hall, City of Fountain, 116 S. Main Street, 2<sup>nd</sup> Floor, Fountain, CO 80817.

**11. LEGAL BRIEFING REGARDING OPEN MEETINGS LAW AND CONFLICTS OF INTEREST**

El Paso County Assistant County Attorney Cole Emmons reviewed the requirements of the Colorado Open Meetings statute and Colorado law pertaining to conflicts of interest.

**12. OTHER BUSINESS:**

Upon motion duly made, seconded and unanimously carried, the minutes of the Board meeting of June 26, 2009 were approved.

**13. PUBLIC COMMENT:** None

**14. EXECUTIVE SESSION (IF REQUIRED):** None

**15. 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, August 28, 2009, at the Fountain City Hall, 116 S. Main Street, 2<sup>nd</sup> Floor, Fountain, CO 80817.

**16. ADJOURN:**

The meeting adjourned at 3:42 p.m.

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Larry Small, Secretary