

**Fountain Creek Watershed, Flood Control and Greenway District
BOARD OF DIRECTORS**

MINUTES

September 25, 2009

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:

Pueblo County Commissioner Jeff Chostner 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>
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
Jane Rhodes	Pueblo City-County
Leroy Mauch	Lower Ark Valley Water Conserv. Dist.
Richard Skorman	Citizens Advisory Group

A quorum was noted.

2. APPROVAL OF AGENDA:

Upon motion duly made, seconded, and unanimously carried, the agenda for the September 25, 2009 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 August 28, 2009 were approved.

At the request of Vice Chairman Chostner, the attorneys for the District, Cole Emmons and Dan Kogovsek, reviewed for the Board applicable Colorado law pertaining to conflicts of law. A discussion ensued and questions from Board members regarding conflicts of interest were answered by the attorneys representing the District.

Director Jane Rhodes announced that she wished to recuse herself from consideration of agenda item 4. Ms. Rhodes then left the Board of Directors' table and took a seat in the audience.

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

A. Request by LaFarge (Applicant) and Sundance Investments (Land Owner) for approval of a special use for mineral and natural resource extraction of sand and gravel. The mining will take place on a 514 acre parcel between the Union Pacific railroad tracks and Fountain Creek. A portion of a second, smaller parcel to the north, consisting of a total of 64.35 acres, will be used for a scale house and access improvements. The Fountain Creek Watershed, Flood Control, and Greenway District has full land use authority for the portions of this land use application that are located within the 100 year floodplain corridor as defined in §§ 32-11.5-103(9)(a) and 32-11.5-205(3), C.R.S., and recommending land use authority for portions of this land use application that are located outside the 100 year floodplain corridor. The site is located adjacent to the southern boundary of the City of Fountain, is zoned RR-5 (Residential Rural) and I-2 (Limited Industrial) by El Paso County, Colorado, and is in the South Central Comprehensive Plan (1988) area. This application is being processed concurrently with a Variance of Use to allow concrete and asphalt batch plants in the I-2 Zone. (Schedule No. 57000-00-097, 57000-00-125)

B. Request by Lafarge (Applicant) and Sundance Investments (Land Owner) for a variance of use to allow concrete and asphalt batch plants in the I-2 zone. Batch plants are only allowed by special use in the I-3 (Heavy Industrial) and M (Manufacturing) zones of El Paso County, Colorado, hence the need for the variance of use. The Fountain Creek Watershed, Flood Control, and Greenway District has full land use authority for the portions of this land use application that are located within the 100 year floodplain corridor as defined in §§ 32-11.5-103(9)(a) and 32-11.5-205(3), C.R.S., and recommending land use authority for portions of this land use application that are located outside the 100 year floodplain corridor. The site is located adjacent to the southern boundary of the City of Fountain, is zoned I-2 (Limited Industrial) by El Paso County, Colorado, and is in the El Paso County South Central Comprehensive Plan (1998) area. This application is being processed concurrently with a special use for mineral and natural resource extraction of sand and gravel. (Schedule No. 57000-00-097)

The District's attorney, Cole Emmons, advised the Board that it could hear presentations and comments on both the special use application and the variance application at the

same time but that separate votes would be required on each application at the end of the hearing.

Cole Emmons suggested that a motion would be appropriate to receive into evidence the documents and testimony from the District's August 28, 2009 board meeting on the two LaFarge / Sundance applications. Said motion was duly made, seconded, and unanimously carried.

Cole Emmons read a list of exhibits 1 through 17 pertaining to the LaFarge / Sundance applications and suggested that a motion to receive said documents into evidence would be appropriate. Said motion was made, seconded, and unanimously carried.

Elaine Kleckner of the El Paso County Development Services Department outlined El Paso County's review of the special use application and the variance application. Ms. Kleckner informed the board that the two LaFarge / Sundance applications were set for public hearings before the El Paso County Planning Commission and the El Paso County Board of County Commissioners. Ms. Kleckner informed the Board that the El Paso County Development Services staff was recommending approval of both the special use and variance applications, subject to numerous conditions.

Steve Brown, Sean Frisch, and Corey Hansen of LaFarge made a power point presentation in support of the pending land use applications, and answered questions of Board members. Mike Drabing of Sundance Investments made comments in support of the two land use applications, and answered questions from Board members.

The following persons made comments in opposition to the two LaFarge / Sundance land use applications: Sally Miller; Jane Green; Janice King; Jonathan Moore; Jim Lockhart; Ross Vincent; State Representative Sal Pace; and Roberta Ringstrom.

Ferris Frost presented the Board with a paper copy of a power point presentation and spoke in opposition to the LaFarge / Sundance applications. Under questioning by Cole Emmons, Ms. Frost made clear that she was speaking not as a member of the District's Citizens Advisory Group, but only as a private citizen. Similarly, Jane Rhodes made comments in opposition to the two land use applications. Ms. Rhodes also indicated that she was speaking not as a member of the District's Board of Directors, but only as a private citizen.

Tad S. Foster, attorney for the Fountain Sanitation District and the Security Sanitation District, stated that his clients were neutral on the pending LaFarge / Sundance land use applications, but expressed concern about selenium concentrations in-stream within Fountain Creek as a result of the gravel mining and batching operations.

LaFarge representatives Steve Brown and Corey Hansen and consultant Paul Banks of Banks & Gesso presented a rebuttal case in which they responded to the concerns and comments made by witnesses in opposition to the special use application and the variance application.

Cole Emmons advised the Board that LaFarge / Sundance had amended its applications to provide that no gravel mining would occur within the Fountain Creek Corridor (FEMA 100-year flood plain). Accordingly, Mr. Emmons advised that the Board did not have primary land use jurisdiction over the two pending applications but only had authority to make recommendations to the El Paso County Board of County Commissioners as follows:

1. Recommend approval;
2. Recommend approval with conditions;
3. Recommend denial.

Mr. Emmons recommended to the Board that it make findings that the District's hearings on the two LaFarge / Sundance land use applications had been properly noticed and posted in accordance with applicable Colorado law; that the hearings on the applications were extensive and complete, and that the District Board's decision on the two pending applications would be in furtherance of the health, safety, and welfare of the citizens of the Fountain Creek District. A motion to that effect was duly made, seconded, and unanimously carried.

Mr. Emmons informed the Board that a motion to accept exhibits 18 and 19 into evidence would be appropriate and that a motion to close the public hearing would also be proper. Motions to that effect were duly made, seconded, and unanimously carried.

Director Larry Small stated that he was in favor of recommending to the El Paso County Board of County Commissioners that it:

1. grant the application for gravel extraction (District agenda Item 4a) with conditions; and
2. deny the application for a batch plant (District Agenda Item 4b).

Director Larry Small moved that the District Board recommend to the El Paso County Board of County Commissioners that the gravel extraction application be approved subject to the conditions recommended by the El Paso County Department of Development Services and the Fountain Creek District's Technical Advisory Committee. Second by Director Gabriel Ortega. Following a discussion, the recommendation for a conditional approval of the gravel mining application failed by a vote of 2-5 with Directors Small and Ortega voting in favor and Directors Chostner, Atencio, Stafford, Mauch, and Skorman voting opposed.

A motion recommending that the El Paso County Board of County Commissioners deny the LaFarge / Sundance application for gravel mining was made and duly seconded. Following a discussion, the motion recommending denial of the gravel extraction application passed unanimously.

A motion recommending that the El Paso County Board of County Commissioners deny the LaFarge / Sundance application for a batch plant was duly made and seconded.

Following a discussion, the motion recommending denial of the batch plant application was unanimously carried.

Director Jane Rhodes returned to the board table to participate in the meeting as a member of the District's Board of Directors.

5. STATUS, DISCUSSION, AND DIRECTION REGARDING INTERGOVERNMENTAL AGREEMENT WITH THE LOWER ARKANSAS VALLEY WATER CONSERVANCY DISTRICT AND THE CITY OF COLORADO SPRINGS

Dan Kogovsek, attorney for the District, reminded the Board that at its last meeting the Board approved an intergovernmental agreement (IGA) with the Lower Arkansas Valley Water Conservancy District and the City of Colorado Springs concerning future financing of the Fountain Creek District. Mr. Kogovsek presented the Board with a letter dated September 25, 2009, written by Cole Emmons on the Fountain Creek District's behalf, recommending to the Board of County Commissioners of Pueblo County that the funding commitments of Colorado Springs contained in the August 28, 2009 IGA be accepted by Pueblo County as monetary mitigation under Condition No. 6 of Pueblo County's 1041 permit for the SDS project. Mr. Kogovsek stated that a motion to authorize Mr. Emmons to send the letter to Pueblo County on behalf of the Fountain Creek District would be appropriate. A motion to that effect was duly made, seconded, and unanimously carried.

Mr. Kogovsek informed the Fountain Creek District Board that the Pueblo County Board of County Commissioners would consider the SDS 1041 mitigation matter at the Pueblo County Board's next meeting scheduled for September 29, 2009.

6. RECEIPT, DISCUSSION, AND DIRECTION REGARDING DRAFT 2010 BUDGET

Dan Kogovsek informed the Board that under Colorado Local Government statutes, it would be appropriate for the District Board to review and pass a preliminary budget for the 2010 fiscal year. Following a discussion, upon motion duly made, seconded, and unanimously carried, the following preliminary budget for the 2010 fiscal year was approved:

**GENERAL FUND
REVENUES**

Source	Estimated 2009	Estimated 2010	Approved Budget 2010
Colorado Springs Utilities	\$50,000	\$50,000	\$50,000
Lower Ark	\$50,000	\$50,000	\$50,000

EXPENDITURES

Item	Approved Budget 2010
Interim Executive Director Compensation	\$60,000
Office Supplies	\$500
Postage / Overnight Delivery	\$500
Telephone / Fax	\$500
Travel	\$5,000
Legal	\$25,000
Independent Audit	\$5,000
Miscellaneous Expenses	\$3,500
Total	\$100,000

MASTER PLAN FUND REVENUES

Source	Estimated 2009	Estimated 2010	Approved Budget 2010
Colorado Springs Utilities	\$25,000	\$100,000	\$100,000
Lower Ark	\$25,000	\$100,000	\$100,000

EXPENDITURES

Item	Approved Budget 2010
Independent Contractor	\$200,000

FLOOD CONTROL STUDY FUND REVENUES

Source	Estimated 2009	Estimated 2010	Approved Budget 2010
SDS Participants	\$100,000	\$100,000	\$200,000
Certificate of Deposit Interest	\$0	\$1,600	\$1,600

EXPENDITURES

Item	Approved Budget 2010
Independent Contractor	\$0

7. **REPORT FROM TAC CHAIR (If necessary):** None.
8. **REPORT FROM CAG CHAIR (If necessary):** None.
9. **STATUS, DISCUSSION, AND DIRECTION REGARDING SELECTION OF AN EXECUTIVE DIRECTOR**

There followed a discussion concerning the selection and hiring of an interim executive director for the Fountain Creek District. Dan Kogovsek informed the Board that the Colorado Sunshine statutes required that a search committee be formed; job search goals needed to be established; a job description had to be written; and deadlines, requirements, and selection procedures were required. Following a discussion, upon motion duly made, seconded, and unanimously carried, it was resolved that the District's Board of Directors would serve as the Search Committee for the selection and hiring of an interim executive director.

Following a discussion, upon motion duly made, seconded, and unanimously carried, the following job description was approved for the position of interim executive director of the District:

**FOUNTAIN CREEK WATERSHED FLOOD CONTROL AND GREENWAY
DISTRICT
JOB DESCRIPTION**

Title: Interim Executive Director

JOB SUMMARY:

Under the supervision of the Board of Directors of the Fountain Creek Watershed Flood Control and Greenway District (District) the Interim Executive Director ("Executive Director") is responsible for the administration and management of all functions under the jurisdiction and authority of the District. The Executive Director is responsible for ensuring that the policies and budget of the District are implemented. The Executive Director will serve the District as an independent contractor of the District and not as an employee.

ESSENTIAL JOB FUNCTIONS: *The following statements are illustrative of the essential functions of the job and do not include other nonessential or peripheral duties that may be required. The District retains the right to modify or change the duties or essential functions of the job at any time.*

- Under the District Board's direction, the Executive Director acts as the highest administrative head of the District. Plans, directs, leads, coordinates, and manages the administration and budget control of the District, committees, and agencies under the control and direction of the District.
- Responsible for obtaining funding to accomplish the District's mission through grants, appropriations from governmental bodies and from other sources of revenue.
- Serves as Coordinator for the District in the day-to-day communication

between the Board and elected officials, other District employees, the District's committees, and the public to ensure effective communication.

- Manages all operational and administrative matters within the stated policies of the District.
- Works with District employees and contractors on a day-to-day basis to ensure that District business is conducted in a manner that is in accordance with District policies and resolves questions arising from the interpretation of District policies with direction from the District's Board.
- Directs, oversees, and participates in the development of District's strategic plan.
- Reviews and approves budget adjustments as necessary.
- Coordinates staff and other individual participation in District meetings by identifying issues, ensuring appropriate staff input, and scheduling meetings and reviewing compliance with decisions of the District's Board.
- Keeps the District's Board informed about the progress of all projects requested by the Board.
- Works in collaboration with attorneys representing the District to ensure compliance with applicable law.
- Manages professional services contracts and major project planning.
- Oversees the public information efforts for the District. Provides information of public interest on all District meetings, projects and matters of interest to the citizens.
- Manages the preparation of the agenda and all required documentation; introduces agenda items for the District Board's consideration and ensures that background information is provided, as needed, to facilitate the Board's consideration of the issues involved; ensures that appropriate records of all District meetings are maintained.
- Manages the day-to-day operations of the District's Office to insure that routine accounting, clerical support, budgeting, purchasing, and maintenance support are available.
- Supervises personnel and program operations including the assignment and review of staff work, interpretation of program and policy for staff, initiation and management of disciplinary action, interviewing, and selection of staff, and scheduling of work time
- Manages the District's employees; reviews and resolves internal issues; develops and implements strategic direction for the District; attends District and public meetings to represent the District as directed by the Board of Directors of the District.
- Participates in various committees and boards related to District activities and responsibilities.
- Responds to information requests and inquiries made to the District.
- Assists the District Board, at the appropriate time, to hire a permanent Executive Director. The Interim Executive Director will be eligible to apply for, and if selected, to serve as the permanent Executive Director.

OTHER DUTIES:

- Performs other duties as appropriate or necessary for the performance of the

Executive Director's job.

PRE-EMPLOYMENT KNOWLEDGE, ABILITIES, AND SKILLS:

- Principles and practices of management commonly used in the management of large public sector organizations.
- Grant writing, reporting and compliance skills.
- Functions/departmental operations of governments and/or public sector organizations.
- Strategic planning methods commonly used in large, complex organizations.
- Budget administration of large, complex organizations.
- Supervisory principles, procedures, and methods including training, discipline, selection, and evaluation.
- Scope and application of laws and regulations pertaining to applicable local, state, and federal programs and organizations.
- Leadership methods and management skills.
- State statutes, government rules, regulations, policies, procedures, and standard operation procedures.
- Working knowledge of water regulations, stormwater, drainage, and land use matters.

REQUIRED QUALIFICATIONS:

- Establish and maintain effective working relationships with other District employees, representatives of other agencies and organizations, and members of the community.
- Successfully accomplish funding goals of the District through grants, appropriations and from other sources of revenue.
- Communicate professionally, clearly and concisely, both orally and in writing.
- Read and comprehend state statutes, government and District rules, regulations, policies, and standard operating procedures.
- Act as an official representative of the District in a professional manner with local, state, and national agencies and organizations.
- Exercise organizational and analytical skills.
- Supervise and mentor professional and support staff in a productive and positive manner.
- Communicate effectively with and on behalf of the District's Board, with other elected and appointed officials and with other public or private organizations and individuals.
- Organize material and present information clearly and concisely in oral and written form.
- Perform effective public speaking to groups of varied interests and backgrounds.

EXPERIENCE AND TRAINING: *Any combination of Experience, Education, and/or Licenses/Certifications that would likely provide the required knowledge and abilities is qualifying.*

Experience:

- Progressively responsible experience in the executive management of a public or private organization.

Training:

- Equivalent to a Bachelor’s Degree from an accredited college or university with major coursework in Public Administration, Business Administration, Political Science, or a related field.

Licenses/Certifications:

- Valid Driver’s License

SPECIAL REQUIREMENTS:

- District residency after hire.

PHYSICAL REQUIREMENTS:

- Frequent use of computer keyboards and other office equipment.
- Travel to various required meetings which may include exposure to adverse weather conditions

UNUSUAL DEMANDS:

- Work is subject to frequent and recurring interruptions and deadlines.
- Extended out of town travel may be required to attend meetings, conferences, seminars, etc.
- Will require attendance at meetings and functions beyond regular work hours.

Following a discussion, upon motion duly made, seconded, and unanimously carried, the following timetable for the selection and hiring of an interim executive director was approved:

Date

Event

9/25/09

Board approval of job description, advertisement, and selection timetable

10/1/09 to 10/9/09

- a. Job posting
 - El Paso County
 - Pueblo County
- b. Newspaper advertising
 - Gazette
 - Chieftain
- c. Internet advertising

10/16/09

Application deadline

10/23/09

Search committee (could be the entire Board) reviews applications and announces finalists

November board meeting

Selection made. (Meeting must be at least 14 days after announcement of finalists).

12/1/09

Interim Executive Director begins job duties

Following a discussion, upon motion duly made, seconded, and unanimously carried, the following advertisement soliciting applications for the position of interim executive director of the District was approved:

**FOUNTAIN CREEK WATERSHED, FLOOD CONTROL & GREENWAY
DISTRICT
INTERIM EXECUTIVE DIRECTOR
ADVERTISEMENT**

The interim executive director reports to the nine-member board of directors of the Fountain Creek District. This person will be responsible for the start-up of a recently formed government district with the mission of flood control and enhancement of Fountain Creek. The interim executive director will be eligible to apply for and to serve as the permanent executive director. This position requires an individual who is a self-starter, has excellent oral and written communication skills and experience in cohesive attitude creation. Candidates should have a bachelor's degree from an accredited college or university in business administration, public administration, or a related field. Successful experience in a management capacity with a government, business, or organization is required. A working knowledge of water regulations, storm water, drainage, and land use issues is recommended. The interim executive director will serve the district as an independent contractor and not as an employee. It is not anticipated that this will be a full-time position. Interested candidates who meet these requirements and have a passion for public service are invited to submit a detailed letter of intent with compensation requirements and a resume to Dan Kogovsek, Pueblo County Attorney, 215 W. 10th Street, Room 312, Pueblo, CO 81003. Telephone number (719) 583-6630. Email address: kogovsek@co.pueblo.co.us. Job description available upon request. Application deadline: October 16, 2009. All applicants will be subject to a criminal history / credit / driver's license check. The applications and resumes of the finalists selected will be subject to public open records laws and media exposure.

10. OTHER BUSINESS:

Vice-Chairman Chostner recommended that at its next meeting the Board discuss formally adopting standards for the Board's review of future land use applications.

Cole Emmons recommended that at its next meeting the Board discuss correspondence dated August 20, 2009, from the Teller-Park Conservation District.

11. PUBLIC COMMENT:

Chuck Pelto made comments to the Board concerning the mission of the Fountain Creek District.

12. EXECUTIVE SESSION (IF REQUIRED): None

13. 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, October 23, 2009, at facilities of Pueblo County Government.

14. ADJOURN:

The meeting adjourned at 4:55 p.m.

Larry Small, Secretary