

**Fountain Creek Watershed District Board  
Citizens Advisory Group  
Meeting Minutes  
March 12, 2010**

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

**1. Call to Order and Introductions**

The March 12, 2010, meeting of the Fountain Creek Watershed Citizens Advisory Group (“CAG”) was called to order by Chairperson, Ms Ferris Frost, at approximately 9:35am. In attendance were the following designated members of the CAG:

Ferris Frost – Chairperson	Eva Montoya
Tom Evans – Vice Chairperson	Ross Vincent
Mary Barber	Irene Kornelly
Terry Hart	Dan Henrichs
Jay Winner	Dennis Maroney
Jack Johnston	Tom Ready
Richard Skorman	

Members not present:  
David Kinnischtzke  
Carol Baker  
Kevin Walker

Also in attendance, Mr Gary Barber, Interim Executive Director, Fountain Creek Watershed District (“District”) arrived at approximately 0945; Mr Dan Kogovsek, Pueblo County Attorney; Mr Chris Yuan-Farrell, Colorado Open Lands; Mr Mike Nelson, Fountain Creek Landowner, and Mr John McArthur, Streamside Systems.

A quorum was noted.

**2. Approve Agenda of March 12, 2010**

*Upon motion duly made, seconded, discussed and unanimously carried, the agenda for the March 12, 2010 meeting was approved.* Items under “other business” were moved ahead of item 8, District by-laws.

**3. Approve Minutes of Prior Meeting(s)**

A question arose as to whether or not the names of individuals making and seconding motions are required or should be included in the minutes. There being no legal requirement to include names and *upon motion duly made, seconded, discussed and unanimously carried, the minutes will not include the names of individuals making and seconding motions except in special instances as may be desired by the CAG members.* For clarification, the written minutes summarize the meeting; the official minutes are the electronic recording.

*Upon motion duly made, seconded and unanimously carried, the minutes for February 12, 2010 were approved.* As requested by the Chair, the Secretary will highlight when there is a motion in the minutes.

#### **4. Report: Fountain Creek Watershed, Flood Control and Greenway District Board Meeting**

Ms Frost reported the following:

-Mr Gary Barber gave a presentation about the District, and he will hopefully give us the presentation later in the meeting.

-The District Board discussed a proposed motor cross family entertainment center to be located north of the [Lafarge] gravel pit site on the west side of the Fountain Creek. Mr Ready requested to discuss the proposed project at this meeting. The CAG has no formal proposal before it for comment/action; however, the Chair agreed that time permitting, Mr Mike Nelson, landowner, would be given an opportunity to describe his proposal under "Other Business".

Mr Johnston interjected that Mr Barber and staff will be sharing office space with him at 1<sup>st</sup> and Main, with the county providing furniture and a computer made available.

Other District Board items:

-The topic of grants was discussed. Mr Winner will talk about this later in the meeting.

-The CAG was advised to ask Mr Yuan-Farrell to submit a resume and a statement as to why he wants to be a member of the CAG, which has been forwarded to Mr Barber for submission to the District Board. This will be the procedure for appointments going forward. Mr Yuan-Farrell's appointment will be discussed at the next District Board meeting.

-Until his appointment, he may participate in the meeting, but he will not be able to vote.

-Mr Hart noted that the CAG recommended Mr Yuan-Farrell be appointed to the CAG and assumes that the District Board would appreciate such communication from us. He suggested our recommendation be part of the procedure. Ms Frost noted that she did recommend Mr Yuan-Farrell, and she clarified the recommendations and information will go to the Executive Director rather than directly to the District Board.

Some members expressed concern about not getting notices of District Board meetings. The next meeting will be March 26, 2010 in Pueblo. Mr Barber will ensure members receive notice of future meetings and a calendar with District-related meetings. Meeting information is also on the web site and the court houses. Mr Hart suggested submitting meeting information to the newspapers as well.

#### **5. Report regarding Technical Advisory Committee Meeting**

Mr Dennis Maroney reported the following:

-Two additional Technical Advisory Committee ("TAC") members representing Fort Carson and the Air Force Academy will be recommended to the District Board at their next meeting.

-The Pikes Peak Area Council of Governments ("PPACG") will be hosting a green infrastructure planning workshop; the TAC recommended that the District Board support the workshop.

-Work on the storm water/drainage criteria manual continues. The TAC will receive a presentation on the status of the manual at their next meeting. The manual under preparation by

the City of Colorado Springs will describe an improved approach toward drainage. The manual will bring in a lot of low impact development and best management techniques based on research around the country. A preliminary draft report is expected in November. The desired outcome is that all of the entities throughout the watershed adopt the manual, not just Colorado Springs. There will be several opportunities for public comment. Mr Barber will arrange a presentation on the manual for a future CAG meeting.

-Mr Barber, Executive Director, gave a presentation similar to the one that he will be presenting to the CAG later in the meeting.

-A TAC subcommittee will be meeting to review the proposed flow chart for the technical review process next Thursday, Fountain City Hall, at 9:00am. They will also focus on which areas of the watershed may need priority for TAC reviews based on the rate of development, e.g. Jimmy Camp Creek area. The TAC will use the Fountain Creek Watershed Plan [prepared by Rich Muzzy and adopted by the PPACG and the Pueblo Area Council of Governments (“PACOG”)] and the US Army Corps of Engineers (“ACOE”) study as the basis for establishing priorities for project review. The Fountain Creek Vision Task Force Strategic Plan, the ACOE study and the Corridor Master Plan were adopted by the District as the basis for their review and approval.

## **6. Strategic Plan Project priorities: Discussion**

Chairperson Ferris suggested postponing this discussion until a future meeting. All agreed to the suggestion.

## **7. State Fair Booth: Discussion**

Mr Maroney supports the suggestion to have a presence at the State Fair. We have had a booth in the past. The display received a lot of visibility, especially to individuals who may not be informed about the creek. Staffing the booth is a challenge. The booth space is available. Mr Maroney agreed to take the lead to work with the City-County Health Department and Ms Baker for a display specific to Fountain Creek for this year.

## **8. Other Business:**

### **Report: Jay Winner re: grants to FCWD**

Mr Winner reported the District drafted a Memorandum of Understanding (“MOU”) among the Lower Arkansas Water Conservancy District (“Lower Ark”), the Fountain Creek Watershed District (“FCWD”), City of Pueblo and any other entity who wants to sign on to manage the grants. The Lower Ark applied for and received grant funding before the formation of the District with the intent of turning it over to the FCWD eventually. Funds available currently through include \$500,000 from the Natural Resources Conservation Service (“NRCS”); Sec 319 money for \$250,000 through the U.S. Environmental Protection Agency (“EPA”), and \$225,000 from the Colorado Water Conservation Board. The money is for two projects on Fountain Creek. One is a sediment removal project; the other is wetlands and storm water detention at the north side Wal-Mart in Pueblo. Once the MOU gets signed the City will award the contract and the District will administer it. Mr Barber mentioned that Ms Katz had been working to extend the detention project to include additional property north of the Wal-mart. The site was discovered to have potential environmental liability issues. The District is working with a potential brownfield developer to include clean up of the project site in the sequence of the chain of title to make it a part of the bigger picture. Mr Vincent asked about the status of the streamside system demonstration project since it had been delayed. Mr Winner and Mr Maroney indicated that they are trying to get the contract awarded so that the administration of the project and

installation/operation mesh together. Monitoring will be done for one year after the installation of the system.

### **Schedule for GIS presentation by Chris Yuan-Farrell**

At the last CAG meeting, Colorado Open Lands agreed to see if they could do a Geographic Information System (“GIS”) presentation so that the members could better understand GIS capabilities. Mr Yuan-Farrell received the clearance to do so. The content desired for the presentation was discussed. The members desire that Mr Yuan-Farrell present what is possible with a GIS – an overview, how it works and the tools available that might help us in our capacity as a CAG. Mr Evans suggested we also get an understanding of the systems that are out there applicable to storm water management. Ms Kornelly said that her original suggestion for maps related to being aware of what types of lands we have; then when developers come in we can better understand how their project might affect the creek and watershed. It would be helpful from her point of view to know who may be impacted, land ownership, current as well as proposed use and how the proposal may affect the creek. Mr Maroney commented that some basin wide mapping was completed during the planning process. Mr Winner thinks that maps are available representing ownership, topography, conservation easements, etc. Mr Hart pointed out that GIS maps would provide better real-time capability because we can place a project with the map layers to get a picture. It was agreed that the group needs a better understanding of the data currently available. Mr Yuan-Farrell will give a presentation in May to show what we can do with GIS.

### **Website postings**

Following a discussion about posting information on a web site for the public, Mr Vincent agreed to be the CAG point of contact for web content. This led to a discussion about who is appropriate for preparing agendas for TAC and CAG meetings, the Executive Director or the members? Mr Barber requested that we wait until his presentation on the by-laws a little later on the agenda to address this question. The by-laws will not be presented for approval until at least the May meeting. This gives the CAG a little more time to look at what we agree and disagree on, develop a concept and vision of the CAG’s role. Mr Barber will take our discussion and edit the by-laws for our review again.

### **9. Information on proposed motorsports park**

Mr Ready requested an information presentation about a proposed motorsports park along Fountain Creek in El Paso County. The project consists of taking a private operation and making it a commercial site. He identified that the land owner, Mr Mike Nelson, was in attendance, and he could speak to the project for information only. The CAG agreed to hear about the project. Mr Nelson informed the members that:

- The project is proposed to consist of motorcycle and all-terrain vehicle (“ATV”) riding trails and related activities such as remote control vehicle track and a training area for individuals to learn how to ride.
- The strategic plan desires that the creek be enjoyed by all. This proposal would provide opportunity for a particular group interested in this type of recreation.
- Mr Nelson does not anticipate any impact on the creek. The trails will be among the trees; there will not be any structures or constructed trails within the floodplain.
- Mr Nelson believes that the project would provide diversity of activities, another desire of the District. It would provide an acceptable location for riders to go.

-Riders do not enter the streambed – trails are already there. There will not be structures in the floodplain. The project is located in El Paso County. There is no erosion or erosion control currently. The site is a flat area. Water backs up and floods the area during storms.  
-Noise and muffler requirements could be addressed. Trees provide natural barriers to noise. The highway, railroad and Pikes Peak International Raceway contribute to noise issues in the area. The project site is located adjacent to the Frost property which might be affected by noise.

## **10. District bylaws: Review, discussion, recommendations to Governing Board Presentation by Executive Director:**

Mr Barber gave a presentation on the district in preparation for commenting on by-laws. Some of the key points made as follows as it pertains to the CAG.

The FCWD is modeled after the Urban Drainage District of the Denver area. The Fountain Creek Foundation is a not-for-profit partner of the FCWD.

An Intergovernmental Agreement (“IGA”) signed in Dec 2008 established the TAC, the CAG and the Governing Board. It was expected that it would take several years in the General Assembly to establish a District.

The statute passed in 2009. The statute prevails over the IGA. However, the IGA remains in effect. The statutory language derived from the IGA. The FCWD was formed under Title 32 of the Colorado Revised Statutes. Title 32 authorizes eminent domain and taxation powers. The FCWD is a special statutory district under Article 11. FCWD is now embodied as Title 32, Article 11.5 of the Colorado Revised Statutes.

Four boundaries define the district:

- all citizens in both counties in the district
- the hydraulic watershed itself
- a negotiated Watershed Management Area – townships that touch the watershed
- the Fountain Creek “Corridor”, 100 foot floodplain south of Fountain and north of Pueblo. Land use control in this section was ceded to the District.

The District has adopted three governing documents – the ACOE study; the Fountain Creek Vision Task Force Strategic Plan; and the Corridor Master Plan.

A super majority is required to spend money and/or implement eminent domain. Land use decisions are based on recommendations from the TAC and the CAG; the Governing Board is not bound by the recommendations.

Big picture ideas:

- The District is in the “water business.” Water means something different to folks in the watershed, e.g. golfer has different interest in water than a farmer.
- Southern Delivery System (SDS) Record of Decision (ROD) and Pueblo County 1041 permit were both approved in March 2009 (before establishment of the District). The 1041 permit is the source of capital.
- Water quality is a complicated issue. A problem implies there is a solution. Dilemma is when there is a choice between equally unsatisfactory alternatives to a difficult or persistent problem. Water quality is also within the purview of the District.
- We don’t know how this will work out. We need a vote to have any kind of permanent funding. We have diverse geography, topography, urban and rural.

-Short term priorities defined as less than (<) 90 days; mid-term is 90 days to six months; long-term beyond 6 months were presented. 2010: make a plan; 2011: projects underway; 2012: possible mil levy election.

Three projects in process:

- Pueblo Greenway and Channel Restoration (Fountain Creek Foundation)
- Sediment removal and side detention
- Clear Springs Ranch

Educate the electorate:

- Colorado Water Education Foundation – tours, other education
- Suggests subcommittees to address issues/opportunities; respect their work; thank them for their work.

Conclusions: We can leave a legacy. Goal for today was to get everyone on the same starting point.

### **Questions, Answers and Discussion:**

Mr Vincent asked for clarification on the distinction between the intermediate boundary (the one that is larger than the watershed but smaller than the two counties). Mr Barber stated that the El Paso County Commissioners were concerned a nine member board voting 7 to 2 could impose a fee across the entire county impacting folks outside the watershed. Some means of limiting the fee area was desired, which was eventually resolved to be the townships within the county that touch the watershed. This portion of the statute applies to the District's ability to impose a general fee for any purpose of the Watershed Management Area. Mr Barber also clarified for Mr Evans that the statute also contains language that the District can create special improvement districts for beneficial projects in a specific area. Fees for a special purpose would require approval of the voters within the improvement district. Mr Evans pointed out that education about the fees will be critical.

Mr Hart asked about involvement of Teller and Fremont Counties, which each contain a very small piece of the watershed. Mr Barber clarified the area and noted that the counties are welcome to participate, but they have expressed little or no interest previously.

Mr Hart also asked whether we would be setting Mr Barber up for failure if we ask him to both manage projects and deal with administrative requirements. Mr Barber responded that if we can get the project side going, it can give us support on the administrative side. Mr Hart stated that the administrative side is critically important but he agrees that getting projects completed is higher priority. Mr Barber noted there are also priority projects that get us to an educated electorate.

Mr Winner asked Ms Montoya to talk about Pueblo's Historic Eastside District. Ms Montoya identified the district as the vicinity of the 4<sup>th</sup> Street bridge and a three to four square block area. It is an urban renewal project along a Colorado Department of Transportation road. A lot of citizen groups and partners are involved. The neighborhood is also redeveloping a greenway south of Nick's Dairy Queen. Mr Winner suggested this is the type of project Mr Barber should pursue. Ms Montoya offered to coordinate vans for a tour; plan for a tour in conjunction with the June CAG meeting in Pueblo.

Mr Barber clarified that the District is not in the position of telling people what they can or cannot do on their private property. Mr Nelson is proposing to open a for-profit outdoor amusement center; this may increase riders compared to a private property operation. This would be a special use request and process under El Paso County zoning. Mr Barber encouraged Mr Nelson come to a Board meeting as a citizen so that he could get feedback and make an informed decision about investing in the land use process. Mr Barber also intends to assist Mr Nelson with understanding what alternatives might be available for grants or other options to achieve a similar outcome with what he is trying to do economically. Our business is not telling anyone what to do with their private property.

## **11. By-Laws**

Ms Frost requested that the members begin discussion on the by-laws, starting with the section pertaining to the CAG.

-Membership: The IGA limited the number of CAG members, but the legislation does not specify a limit. The Board has already exceeded the 15 member limit established in the IGA. Mr Barber's opinion is that the Board has decided the number of CAG members should go up and down depending on the subject being addressed. He believes the Board does not see any value in limiting the number of people. Some members like the idea of a maximum number of CAG members with the understanding that representation is what's important; others do not like the idea of establishing a limit as it may cause other complications.

-Other possible topics for by-laws discussion include terms of members (established by the Board and okay with us); representation guidelines (don't stack the deck; voting dynamics could be impacted by membership; set/don't set a limit on the number of members); public notice procedures (where posted, how far in advance, etc).

-Email recommendations for the by-laws to Mr Barber. Working with Mr Cole Emmons, El Paso County attorney, Mr Barber will attempt to revise the by-laws with our inputs for review at the next meeting.

-Ms Frost requested the members write down their ideas and come prepared to discuss the by-laws and priorities at the next meeting.

**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 April 9, 2010 at 9:30am at Fountain City Hall.

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