



FOUNTAIN CREEK WATERSHED

Flood Control And Greenway District

Fountain Creek Watershed, Flood Control and Greenway District
Technical Advisory Committee

Meeting Minutes

Wednesday, October 3, 2018 – 1:00 PM

1. Call to Order, Introductions, and Establishment of a Quorum: The meeting was held at Fountain City Hall, 116 S. Main Street, Fountain, Colorado. A quorum was established, and the meeting was called to order at 1:02 p.m.

Committee Members in Attendance

Andra Ahrens	City of Pueblo, Water Quality
Joan Armstrong	Pueblo County, Planning and Development
Kevin Binkley	Colorado Springs Utilities/City of Colorado Springs
John Chavez	El Paso County, Stormwater
Jeff Hawkins	City of Pueblo, Stormwater
Irene Kornelly	FCWFCGD Citizen's Advisory Group
Dennis Maroney	Pueblo Conservation District
Richard Mulledy	City of Colorado Springs, Stormwater
Mark Shea	Colorado Springs Utilities
Brandy Williams	City of Fountain, Engineering
Larry Small	FCWFCGD Executive Director

Others in Attendance:

Joshua Carpenter	US Army Corps of Engineers, Albuquerque District
Keith Curtis	PPRBD Regional Floodplain Administrator
Jeff Rice	El Paso County, Engineering
Ben Sheets	City of Fountain, Engineering
Joshua Watkins	Fountain Sanitation District

2. Approve Agenda: A motion was made by John Chavez to add a discussion for potential funding for Old Pueblo Road Bank Stabilization project in El Paso County under Item 8 (New Business) of the agenda. Irene Kornelly moved to approve the agenda as amended, which was seconded by John Chavez and approved by unanimous vote.
3. Approve Minutes of the September 5, 2018 Meeting: A motion to approve the minutes was made by John Chavez, seconded by Richard Mulledy and approved by unanimous vote.
4. TAC Member Comments:
 - Irene Kornelly noted that Creek Week activities had begun on Saturday, September 29 and continued through Wednesday, October 7.
 - Kevin Binkley noted that a public notice had recently been issued by the US Army Corps of Engineers regarding a proposed Fountain Creek Mitigation Bank project. The project is being proposed by SCP Conservation, LLC to establish the Fountain Creek Mitigation Bank near the El Paso/Pueblo County line. Kevin noted that since the project appears to fall within the FCWFCGD

jurisdiction, the District might be interested in reviewing the public notice. Any comments are due to the Albuquerque District office by October 25.

- Brandy Williams inquired if a Pueblo County representative had been selected to fill the vacant seat on the TAC left by Pat Coffee following her retirement.

5. Public Comments: None

6. Presentations:

- a. Floodplain Encroachment Enforcement Authority, Roles and Responsibilities Agency Panel – Josh Carpenter, USACE; Keith Curtis, PPRBD; John Chavez, El Paso County; Joan Armstrong, Pueblo County; Richard Mulledy, Colorado Springs: The panel discussed floodplain encroachment enforcement authority for each individual governmental agency.

Josh Carpenter noted that the USACE, Albuquerque Office has enforcement authority for illegal discharges in jurisdictional areas (i.e., below the ordinary high-water mark within waterways designated as Waters of the US. These actions may include first working with land owners to correct identified issues; however, if continued violations occur, then the land owner or responsible party can be referred to USEPA for further enforcement and ultimately potential fines from US Department of Justice. The USACE is typically interested in evaluation of the 2-year and 5-year storm events as opposed to the 100-year floodplain delineation, generally within the ordinary high-water mark. The USEPA has the authority to issue fines up to \$27,500 per day per violation under the Clean Water Act and can also pursue criminal action. The USACE can recommend enforcement the property owner, regardless of culprit.

Joan Armstrong oversees floodplain management in Pueblo County (permit administrator). As the permit administrator she sometimes is required to enlist the assistance of the County Health Department depending on contaminant of concern related to the issue (e.g., illegal dumping). Enforcement of floodplain violations can be escalated to County Commissioners for fines and legal action, which can lead to enforcement fines of up to \$100 per day.

Keith Curtis oversees floodplain management and serves as the floodplain administrator for El Paso County [including the cities of Colorado Springs, Fountain and Manitou Springs; and the towns of Green Mountain Falls, Monument and Palmer Lake]. This work generally includes permit enforcement within the mapped 100-year floodplain and working with applicants to properly restore property within the mapped areas. If continued complaints persist related to illegal dumping or improper construction management in the floodplain, a stop work order can be issued along with a double permit fee fine up to \$1,000. The administrator can additionally issue a certificate of non-compliance against the property and the property owner must resolve the certificate of non-compliance before the property can be transferred or sold.

John Chavez assists in the oversight of MS4 stormwater and drainage criteria compliance in El Paso County. The County has a variety of regulatory mechanisms to address illegal dumping and other infractions in the floodplain. These include Code Enforcement (e.g., rubbish dumped in the floodplain); Land Development Code (e.g., bank stabilization for land disturbance over one

acre, and deposition of inert material); Board of County Commissioners (e.g., authorization to enforce through civil court if deemed necessary with fines up to \$500); MS4 illicit discharge ordinance; Grading and Erosion Control Plan enforcement; Colorado state statute giving County approval to remove debris to eliminate flooding risk if it so chooses (El Paso County chose not to pursue this authority); and ability for the County to resolve issues that affect public health and environment by going into private property to remediate through appropriate internal approvals.

Richard Mulledy serves as manager of the City of Colorado Springs Water Resources Engineering Division and Stormwater Enterprise. The City has several mechanisms to enforce floodplain management requirements within the City limits, including the City's MS4 illicit discharge ordinance and grading requirements for disturbances over one acre. A separate City ordinance requires grading plans under more stringent requirements (e.g., properties located within designated hillside or streamside overly areas, projects with over 500 cubic yards of excavation or fill, grading of property with natural slope in excess of 8%). Enforcement of these ordinances are conducted through municipal court with fines up to \$1,500.

Jeff Hawkins serves as the stormwater manager for the City of Pueblo. The City of Pueblo has similar ordinances to the City of Colorado Springs and the two counties. These include an ordinance for various types of littering, with City Code Enforcement as the primary enforcement authority. Mr. Hawkins noted that the City's biggest problem in the floodplain area is homeless camps and the City has found that video cameras are one of the best tools to use to assist in enforcement related cases, which can lead to fines of up to \$1,000 per incident.

Josh Carpenter added that typically USACE can provide enforcement assistance related to violations below the ordinary high-water mark in designated Waters of the US. Anything above the ordinary high-water mark is typically the responsibility of the local jurisdictions. Lat/Long coordinates and responsible party information, along with a brief description of the identified infraction/issue is always helpful in aiding enforcement. The panel participants also reiterated the importance of gathering evidence (e.g., photographs, video documentation, surveillance footage, etc.) at the time of a violation to aid in successful enforcement actions.

At the conclusion of the panel discussion, Mr. Carpenter offered to add local contact information on the USACE Albuquerque District website to aid in the identification of additional local permitting agencies applicants should reach out to in addition to the USACE for project related regulatory obligations.

7. Reports:

- a. District Board/Water Activity Enterprise Board: District Executive Director, Larry Small reported on the September 28, 2018 meeting, where the 2019 budget was presented for approval. The proposed budget included spending approximately \$15 million by the Enterprise in 2019 and approximately \$200,000 by the District. The Enterprise Board also approved the Monetary Mitigation Fund Advisory Committee's recommended 2019 Capital Improvement Plan (CIP) project list, which included three projects (additional Barr Farm stabilization areas, Overton Road creek project, and a Floodplain Management Implementation/Opportunity Study by the District Engineer). The District is in the process of applying for a CWCB grant for one-half of the

Floodplain Management Implementation/Opportunity Study cost. The next District Board/Water Activity Enterprise Board is scheduled for October 26, 2018.

- b. Citizens Advisory Group: Irene Kornelly reported that the Citizens Advisory Committee met on September 14 with a field trip to Rainbow Falls and then to Manitou Springs to observe provisions completed on flood control within the city. The next meeting will be held on October 12 and will include review of the 2019 CIP and focus on a discussion of the future of the District's outreach efforts.
 - c. Monetary Mitigation Fund Advisory Committee: Irene Kornelly reported that the MMFAC met on September 18, and approved the 2019 Capital Improvement Plan (CIP), which included three additional Barr Farm projects, Overton Road creek project, and a Floodplain Management Implementation/Opportunity Study to be completed by the District Engineer.
 - d. AFCURE: Mark Shea reported out on the most recent AFCURE events. No significant updates.
 - e. Projects Updates: District Executive Director, Larry Small gave a brief update of District projects:
 - Hwy 47 projects nearing completion with revegetation efforts in the final stages. Coir mat installation is complete, with planting to resume in October to complete the installation of willows and cottonwoods by the end of November and contract closeout in December.
 - Pinon Bridge project – evaluating 4 alternatives; converted from channel project to full floodplain management project. Just recently obtained access to begin on-site assessment portion for progression of design. Presentation to follow in the upcoming months.
 - Pueblo Channel projects kicked off first part of August with data collection, alternative analysis to start in the future. The first kick-off meeting for stakeholders is scheduled for October 18.
 - Barr Farm project – moved away from restoration of just the two identified banks to a full floodplain management restoration project with focus on channel realignment with addition of more sinuosity in addition to restoration of the two banks. Alternatives have been assessed and the District Engineer is moving forward with 30% design of the selected alternative.
 - Pinon Bridge and Barr Farm RFPs to be released soon with start of construction hopefully yet this year or first of next year.
 - Remaining projects projected to finish design by next May followed by construction.
8. New Business:
- a. Old Pueblo Road Bank Stabilization project in El Paso County: John Chavez made a motion requesting that the TAC and the MMFAC consider evaluating the Old Pueblo Road bank stabilization project in El Paso County for funding by the District. The project area is located on private property approximately 0.5 mile south of Birdsall Road where a gabion basket wall has collapsed following recent 2018 storm events. The cost is estimated at approximately \$1M to properly restore. The TAC members discussed and requested additional information. Mr.

Chavez rescinded his motion and agreed to bring more information to the November District TAC meeting for further discussion.

9. Old Business

- a. City of Colorado Springs Streamside Overlay: Richard Mulledy suggested that the committee look at meeting sometime during the week October 15.

10. Future Business

- a. USGS Water Quality Update: The group discussed that an update could potentially be scheduled for the November meeting.
- b. Floodplain Encroachment Enforcement Authority, Roles and Responsibilities – Post Agency Panel Discussion: The group discussed and recommended that a post agency panel discussion be scheduled in the upcoming months.

11. Set Date, Time, and Location of Next Meeting: The next meeting will be held on Wednesday, November 7, 2018 at 1:00 pm at Fountain City Hall.

12. Adjourn: The meeting adjourned at 3:00 pm.