

APPENDIX K

**Fountain Creek Vision Task Force
Funding Options and Long-Term Management Working Group
Meeting Summaries**

**Fountain Creek Vision Task Force
Funding Options and Long-Term Management Working Group
Meeting Summaries**

**Fountain Creek Vision Task Force
Funding Options Working Group
August 28, 2007
Final Meeting Summary**

Attendance

Carol Baker, Gary Barber, Jeff Chostner, Sallie Clark, Dennis Darrow, Ferris Frost, Merle Grimes, Leslie Hickey, Bruce McCormick, Rich Muzzy, and Heather Bergman

Action Items

Gary Barber	Prepare a matrix of functions and entities in the watershed for the group to discuss and complete
Merle Grimes and Gary Barber	Work with Heather Bergman to create a summary description of each of these types of entities for discussion at the next meeting.

Possible Goals of a Funding Entity

The group brainstormed possible goals for a funding entity for the Fountain Creek watershed, *understanding that the final funding option selected for Fountain Creek may not be tasked with achieving all of them.* These goals included:

- Shared responsibility
- Collaboration
- Regulatory authority
- Super-structure
- Being above politics
- Getting and providing money
- Coordination of policies and projects
- Integrating Task Force vision, Army Corps recommendations, and other efforts

The group also agreed that the funding entity would need a carefully defined geographic, temporal, and functional scope to ensure that its purpose was clear and that it was able to accomplish its goals. Some participants stated that the entity should start small (in geography and/or function) and then grow and evolve over time; others felt that it should be designed to be large in geography and/or functional scope from the beginning. It was suggested that legislative authority might be necessary to create an entity, depending on what its final desired function is.

It was agreed that the group needs to have a better sense of what functions are currently being served by other governmental entities in the watershed before it can discuss functions for a new entity. Gary Barber agreed to prepare a matrix of functions and entities in the watershed for the group to discuss and complete. This will help the group understand what holes, if any, exist in current functions and authorities in the watershed.

Concerns about a Funding Entity

Several concerns were raised about a funding entity, how it would be created, and what it would do. These concerns included:

- Having biological priorities drive the scope of the entity
- Territoriality among local governments
- Water supply impacts
- Source of funding (non-profit that gets grants, taxing authority, membership, etc.)
- Getting Consensus Committee agreement
- Having authority or “teeth”
- Lack of a regulatory or legislative driver
- Definition of scope (starting small, expecting evolution over time)
- Hurt feelings and appearance of bias (who is included, who is not)
- Semantics (what we call it)

Funding Options for Fountain Creek

Based on their current knowledge, the group brainstormed a list of possible approaches to creating a funding entity for the Fountain Creek watershed. Some of these options might be implemented in conjunction with others; some could operate independently. Options included:

- Urban drainage district (like Denver has)
- Greenway Foundation
- Funding pass-through (like the El Paso County Regional Transportation Authority)
- Watershed authority (models include Chatfield, Cherry Creek, and Bear Creek)
- Voluntary association, member-based (like the North Fork River Improvement Association)
- Conservation district
- Special district

The group agreed they do not currently know enough about what each of these kinds of entities does, how they are created, how they are funded, and who participates in them. Merle Grimes and Gary Barber agreed to work with Heather Bergman to create a summary description of each of these types of entities for discussion at the next meeting.

Next Meeting

The next meeting of the Funding Options Working Group will be on Thursday, October 4th, from 12:30 p.m. to 2:30 p.m. at the Fountain City Hall.

**Fountain Creek Vision Task Force
Funding Options Working Group
November 6, 2007
Final Meeting Summary**

Attending

Carol Baker, Elise Bergsten, Jeff Chostner, Sallie Clark, Dennis Darrow, Ferris Frost, Carole Lange, Dennis Maroney, Gary Rapp, Richard Skorman, Barb Vidmar, Ron Mitchell, Niki Koszalka, and Heather Bergman

Action Items

Heather Bergman	Will create a funding entity evaluation form
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South Platte Tour

- ❖ The guests who attended the South Platte tour realize that people and the community need to be interested in the watershed so there is personal investment. The work on the South Platte began in 1974.
- ❖ The Urban Drainage and Greenway Foundation model obviously works. It is an excellent model. The Taxpayers' Bill of Rights (TABOR) could present challenges to this model. The Fountain Creek watershed has different challenges including protecting agriculture land and ranchers. The Fountain Creek watershed needs cooperation between two counties and the local government entities.
- ❖ A good vision can be easy to sell. A key part is going to be the infrastructure from the drainage district. Even with political discourse, the South Platte group worked together in non-threatening meetings.
- ❖ To engage and involve the community, there is the need for education and outreach.
- ❖ South Platte received lots of matching money. Jeff Shoemaker from South Platte is willing to help the Fountain Creek Vision Task Force in any way he can.

Completed Functions Matrix

- ❖ The group reviewed the matrix of potential functions for a funding entity for Fountain Creek. The matrix shows what government entities are working in certain function areas of the watershed. The group also discussed any gaps or overlaps in the matrix.
- ❖ The biggest gaps found were floodplains and insurance, sedimentation, erosion, and wetlands.
- ❖ The most obvious overlaps found were with land use. The anticipated growth in the watershed is huge. The local level is the best way to deal with land use.
- ❖ There is also noticeable overlap with parks, trails, and open space. There needs to be communication in all land use planning within the watershed.
- ❖ The FOWG brainstormed a list of potential criteria for evaluating existing models' appropriateness for Fountain Creek:
 - Maintenance
 - Construction
 - Planning
 - Prioritization
 - Funding
 - Land use oversight or consultation
 - Acquisition of land or easements
 - Floodplain management or oversight
 - Outreach or education
 - Recreational and environmental amenities
 - Enforcement

- Maintain the hydrological model
- Policy guidance

Substantive Areas for a Funding Entity to Address

- ❖ The group discussed the substantive issue areas that a funding entity for Fountain Creek should/could address:
 - Flood control
 - Land use
 - Water quality
 - Water quantity
 - Stormwater management
 - Floodplain management
 - Erosion
 - Sedimentation
 - Wetlands
 - Operations and Maintenance
- ❖ Heather Bergman will prepare a funding entity evaluation form for future meetings.

**Fountain Creek Vision Task Force
Funding Options and Project Implementation Working Group
January 16, 2008
Final Meeting Notes**

Attending

Carol Baker, Jeff Chostner, Sallie Clark, Dennis Darrow, Ferris Frost, Mary Jaurequi, Carole Lange, DeAnne McCann, Cam McNair, Gary Rapp, Ken Sampley, Jennifer Teal, Aimee Tihonovich, Ross Vincent, Terri Velasquez, Niki Koszalka, and Heather Bergman.

New and Pressing issues in the Watershed

- The USGS released its report on E. coli in Fountain Creek. Cam McNair will send the report or a link to Heather Bergman, who will distribute to the group.
- A water retention and storage project is being considered on the east side of Pueblo. Jeff Chostner will keep the group informed of any further information on this topic.

Enterprise Zones (Aimee Tihonovich and DeAnne McCann)

- An enterprise zone (EZ) is an economically distressed area of the state in which special tax incentives are offered to businesses that are local or expand into the zone.
- An enterprise zone is designated based on high unemployment, low income, or slow population growth.
- The purpose is to create new jobs and investments in the EZ.
- There are various tax credits (including investment tax credits and job training expenses tax credits) available for enterprise zones.
- Enterprise zones need a structured training or basic education program to improve the job skills of the taxpayer's employees or "qualified job training."
- There are credits available for new business facility (NBF) jobs and NBF employees.

- The research and development credits are based on the increase of a company's qualified research and development expenses. The credit is 3% of an increase. Various research and experimental expenditures credit qualify.
- There are various credits available for vacant building rehabilitation.
- The EZ statute gives authority to local governments to refund local sales taxes on purchases of equipment, machinery, machine tools, or supplies used in a qualifying business in the EZ.
- There are various EZ property tax incentives.
- Various tax incentives are available for contributions to EZ projects.
- The eligible project categories include work with the homeless population, business assistance, job training, infrastructure/capital, marketing, health care facilities, and other community development.
- The benefits to being an eligible project include:
 - Providing incentives to individuals and businesses to donate to the project
 - Increasing taxpayer donations
 - Increasing visibility of project
- EZ does not provide grants.
- Certification of contributions may be disclosed as a public record. In-kind contributions are also accepted.
- For more detailed information on enterprise zones and contact information, please see the presentation posted on www.fountain-crk.org.

Questions and Answers

What about credits for in-kind contributions?

They are not eligible for federal tax credits but are eligible for state tax credits.

If the Fountain Creek Vision Task Force formed a non-profit organization and housed the offices in an enterprise zone, will the group qualify for tax credits?

The tax credits would be a percentage of the contributions. It is very important that the office is located in the zone.

If the Fountain Creek Vision Task Force created a demonstration project, would the land donated be eligible for tax credits?

Yes, and this seems to be a good fit for qualifying as an enterprise zone project.

Can the enterprise zone be a cross-county project?

Yes, but contributions have to go to each county separately.

Colorado Springs Stormwater Enterprise (Ken Sampley and Jennifer Teal)

- The Stormwater Enterprise was established to fund projects like maintenance, repair, rehabilitation projects, and municipal discharge permits.
- The City of Colorado Springs explored many options for funding and created a citizen task force in 2005 to look at possible funding mechanisms. The group came up with a recommendation for the Stormwater Enterprise. The fee structure was based on amount of impervious areas for different types of properties. A density component was later added. The Stormwater Enterprise will generate approximately \$18 million per year, and is believed by the City to be an effective approach that provides sustained funding over time.

- Colorado Springs uses the term “enterprise” to refer to fee-based businesses. Many other cities run their stormwater businesses through their utility departments.
- The City Council oversees the Stormwater Enterprise and the budget. The Stormwater Advisory Committee influences the decisions of the City Council.
- The limitations or challenges are the public acceptance of the fee. The Stormwater Enterprise has met some resistance with the fee structure. The public feels it is just another bill and has voiced frustrations. The Stormwater Enterprise spends much time explaining to the public the fee structure and where the monies are spent. The billing process was changed several times in the last year and has proven to be more extensive than the Enterprise thought it would be. Most of this has to do with feedback from and interaction with the public.

Questions and Answers

Is the Stormwater Enterprise doing anything with the money or just collecting it?

There is a list of prioritized capital improvement projects. The majority of money goes to hard projects and to stormwater system maintenance.

Are the fees large enough to meet the need?

Right now the money is enough to get the Stormwater Enterprise started.

Where does the Stormwater Enterprise stand with the challenge from former El Paso County Commissioner Bruce?

There are two petitions. One is aimed at making the City’s enterprises voluntary, and the other toward restricting loans and payments between City enterprises and the City’s general fund. It is anticipated that they will collect enough signatures to be on the next ballot. A public communication process will be a separate effort to ensure that voters are informed.

If you were to advise another group to set up a funding entity, would you suggest the form that Stormwater Enterprise followed?

Yes, but it requires both a technical approach and a political approach as well. Denver’s South East Metro Storm Water Authority (SEMSWA) is probably akin to what a Fountain Creek stormwater entity could look like. The cross-jurisdictional boundary issues will make a Fountain Creek stormwater entity more challenging. For the entire watershed, it would be hard to have a Colorado Springs-like enterprise for stormwater.

With all the interest in low-impact development (LID) and matching the hydrology, what would happen to the fee structure if these other things were set in place?

LID may mean there are more maintenance issues while addressing water quality and quantity. The Stormwater Enterprise recognizes that planning and development need to work together to properly incorporate and utilize LID.

Next Steps

- The group has identified several other potential models for a funding entity for Fountain Creek. Participants agreed to contact representatives from these entities to invite them to speak at the next meeting. Heather Bergman will provide contact information and presenter questions to those who are making these calls.
 - Carol Baker will contact Urban Drainage and the Greenway Foundation.

- Heather Bergman will contact a representative from the Chatfield Watershed Authority.
- Ken Sampley and Cam McNair will contact SEMSWA.
- Carole Lange will contact the Blackfoot Challenge in Montana.
- Jeff Chostner will contact someone to speak about special districts.
- The next meeting will be Tuesday, February 19, 2008 from 1:00 to 4:00 pm.

**Fountain Creek Vision Task Force
Funding Options and Project Implementation Working Group
February 28, 2008
Final Meeting Notes**

Attendance

Carol Baker, Andre Bracken, Russell Clayshulte, Dennis Darrow, Ferris Frost, Mary Jaurequi, Mark Johnston, Brian Kay, Carole Lange, Bob Miner, Ron Mitchell, Margaret Montano, Annie Oatman-Gardner, Larry Patterson, Gary Rapp, Ross Vincent, Niki Koszalka, and Heather Bergman

New and Pressing Issues in the Watershed

Carol Baker and Jay Winner gave a presentation on the Fountain Creek Corridor Master Plan to the Pueblo City Council and are preparing a presentation for the Fountain Creek Vision Task Force.

Chatfield Watershed Authority (Russ Clayshulte)

Why / how was the entity created or formed?

- Water Quality Authorities – the Bear Creek Watershed Association, much like the Chatfield Watershed Authority and the Cherry Creek Water Quality Authority, were formed to help address water quality issues that were measured in the respective reservoirs through US EPA Clean Lakes Studies. The studies demonstrated water quality and beneficial use impairment.
 - The resulting early total maximum annual load (TMAL) study was taken to the Colorado Water Quality Control Commission (WQCC) for establishment of regulations to address the problem.
 - Additionally the Denver Regional Council of Governments (DRCOG) recognized these authorities as water quality management agencies, which required approval by the DRCOG board and then the Governor of Colorado.

What was the social, political, environmental, financial context for this entity?

- For Bear Creek Association, key drivers were/are:
 - Environmental water quality management: to meet the control regulation and watershed growth and development.
 - Financial savings: the control regulation allowed a collective monitoring and implementation program
 - Collective monitoring: \$45,000 to \$65,000 per year
 - Separate monitoring estimate: \$250,000 per year

- Political unity: the regulatory process allows a local-to-state process, rather than a state-to-local process
 - If political unity could be demonstrated
 - Most of the authority processes in the early stages were not social and a number of conflicts arose and were resolved

What is the primary purpose of this entity?

- The Bear Creek Watershed Association, like the Chatfield and Cherry Creek Authorities in the DRCOG area, serves as a management agency to meet the requirement of the DRCOG metro Vision Plan.
 - Growth and development
 - Watershed planning
 - Wastewater planning and management
 - Meeting standards and classifications
- Control regulation: help monitor and implement specific requirements in respective control regulations for total maximum annual loading.

Who identified this purpose and by what process?

- The purpose was identified by DRCOG and the Water Quality Control Division staff.
- Water quality data collected by the state had demonstrated a water quality problem. DRCOG identified all potential players, helped organize early meetings, and later helped with the formation of the groups.
- The key decisions on the group formation required action by the DRCOG Board of Directors through a formalized public process, including public testimony at a series of public meetings

How much enthusiasm was there for this entity?

- There was a mixed reaction because of the following issues:
 - Identifying the decision makers
 - Appropriate role of political leaders
 - Long-term cost issues
 - Political unity concerns
 - Uncertainty of long-term success
 - Uncertainty of science
- Many individuals were more enthusiastic than were larger groups; DRCOG staff helped generate support and success
- Keeping interest alive can be difficult, have to review vision and mission

How much resistance was there to the creation of this entity?

- The hardest sell was to:
 - Local government
 - Boards of water and sanitation districts,
 - Metropolitan districts
 - Counties
- The financial burden was a major local concern
- Cost share, who should pay the tab and biggest share; unfunded mandate issue

Did government agencies react differently than other stakeholders?

- Clearly different reactions
- The state and federal government agencies viewed it as a necessary “duty”
- Local government agencies were less enthusiastic
- The environmentalists didn’t think the process went far enough, still don’t
- Businesses were generally left out, and still are
- Private citizens have only ever engaged at the margins, but there is growing public interest

How has the current function of the entity evolved or changed over time?

- All the authorities have evolved over time
- The Bear Creek Association expanded its mission
 - Taken a broader spectrum of watershed issues
 - A great interest in water rights, and Board review
 - Fisheries and environmental studies
 - Environmental education and outreach
- The authorities have remained key in monitoring and data analyses
 - Cost of monitoring and extent has grown
 - More reporting
- The authorities have become referral agencies to counties and local governments
- How is this entity governed?
 - Board of directors
 - Technical review committee

How do associations/authorities involve the public in planning, implementation, monitoring efforts?

- The Bear Creek Association
 - Involves citizen and other interest groups in the technical review committee and board discussions
 - Homeowner associations members
 - Invites citizen attendance and involvement at meetings
 - Open formatting for any citizen issue
- Monitoring process invites others to observe and assist with sampling
 - The association shares data with Trout Unlimited, the Colorado Division of Wildlife (DOW) and local schools
 - Information is shared via website.

How is the entity funded?

- Bear Creek and Chatfield Authorities are dues-based
- Board approved fee schedules are based on a combination of wastewater discharge, population, and contribution to the problem
- The Chatfield Authority also used assessed valuation to set initial levels
- Applies for state and federal grants

How are funds distributed?

- Bear Creek and Chatfield Authorities approve invoices at meetings and issue checks

- They have annual budgets to determine distribution amounts
- Within fixed annual budgets

Who decides how funds are distributed?

- Board of directors

What are the primary strengths and or benefits of this approach to problem solving?

- The authority process has been successful
 - Has generated political unity
 - Shared monitoring savings
 - More comprehensive evaluation of data and solutions
 - Better science
 - Improved collaboration among membership
 - Better education of membership on issues and solutions
 - Improved trust
 - Watershed approach
 - Point of focus; issues forum

What have you found to be the limitations or challenges of this approach?

- Limited resources (failure of one big member to pay annual dues could collapse effort)
- Personalities
- Maintaining long-term interests
- Tendency for members to push for status quo
- Fear of more regulation
- Environmental uncertainty
- Pressure from outside groups
- Increased citizen interest
- Lack of education of watershed population
- Not all stakeholders at table (by design and choice)
- Politics

Questions and Answers

Who approves a water quality authority?

Once they are established as an authority, it is under the state laws. State law gives them the recognition.

How do the state and a water quality authority interface?

DRCOG and the water quality authority get together on a monthly basis.

Are the authorities assuming some of the responsibilities of the state health department?

Yes, under the federal Clean Water Act, a water quality authority has to have a plan. DRCOG became a source for writing the plans and the Total Maximum Daily Loads (TMDL). The state now takes on this role.

Do all councils of government (COGs) in Colorado have the authority to set up water quality authorities?

Yes

Are most of the authorities under one COG?

Yes, most are. Chatfield keeps El Paso County in the loop but not for decision making--more for information.

An entity has a water quality issue, the state tells the entity to form a group to aid in the water quality issue, the group gets formed, and the state forms a management agency. Is this how the process goes?

Mostly yes. The state had to allow planning agencies, like COGs, to write plans. The management agencies work to get grants to do the work and subsequently write the plan.

When was the Bear Creek Watershed Authority formed?

Bear Creek was formed in 1981.

How do you interact with the Colorado Water Conservation Board?

The groups do not directly interface. State agencies are welcome to join the board but if they are not so inclined, they are not pushed to.

Is there anything that prohibits watershed associations from crossing COG lines?

No, there is nothing prohibitive and nothing that precludes this occurrence.

Is the physical manager of an authority based at the COG site?

No. In the beginning, the managers were staff of DRCOG but independent managers were proven to be needed.

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Is there flexibility for changing an authority's vision and mission?

Yes.

What portion of the funding can be expected from federal/state funding?

The expectation should be for none and then you can be grateful if any comes through.

Federal money is not stable?

No, it is not stable, and it is very competitive. EPA has some large grants available. It is always worth a try.

Do authorities have broad latitude of things that can be incorporated into the authority?

Yes, there are broad latitudes. This allows authorities the ability to write broad watershed plans.

Did Chatfield opt not to expand and take on new issues? Does choosing not to expand put a block on making things happen?

Yes, and sometimes new groups are formed to take on the new issues. Chatfield now has three different groups, and it causes confusion to the general public. Some groups have become a referral point in growth and zoning. This allows a group to look at projects upfront and to have water quality issues looked at as well.

Are the other groups set up in Chatfield authorized by the COG?

No.

Do the boards of the associations/authorities accept in-kind contributions?

Some do pay with in-kind contributions.

What is used for the fee structure?

Growth projections are used. Traffic analysis zones are also used. Most fees are assessed based on population.

Do any of the association/authority players have septic returns?

Most are working toward moving in that direction. Approximately 27,000 septic systems can produce about 29,000 pounds of phosphorus. Some associations/authorities want to make a fee attachment to septic systems which will fund projects to reduce the mineral load in the watershed.

Do all of the authorities have a reservoir as a component of what is monitored?

Yes, except Clear Creek, which was set up in the mid 1990s.

Is there anything you would have done differently?

Each project was a huge learning experience. It would have been helpful to have had more organization and a better watershed plan. The biggest limitation is funding; there is no question most of these groups are under funded. Anything that will assure money coming in is a good step.

How are associations/authorities structured?

Management agencies have memorandums of understanding in terms of how the governments will interact. Bylaws are now the key mechanism and are recognized through the COGs.

Are associations/authorities funded by the government or are they a line item in a COG budget?

Who manages the money?

Each group, being dues based, has their own bank accounts, writes their own checks and pays their own bills. They do have a federal tax number and are categorized as "not for profit watershed authorities" by the Internal Revenue Service.

Do you have any stand-alone enforcement entities?

No, we have to work with the cities and counties.

In your experience has any local entity withdrawn or refused to participate?

The Forest Service has not participated. They own a lot of land and should be at the table. The burn areas and beetle issues will have a direct impact on watersheds. At one point, Jefferson County decided to withdraw from Bear Creek. In hindsight, Jefferson County realized it would cost them more not to be involved. All associations/authorities are at the mercy of the big players and having a major player withdraw is a serious concern.

If an association/authority is set up as a non-profit, is this similar to a regional building authority?

Yes, this is the Lake Tahoe model. The Lake Tahoe Authority was set up as the taxing agency.

If there is only money for a few projects a year, how do you prioritize new projects, or do you find yourself mostly fixing old sins?

Yes, fixing of old sins happens. Sometimes the fixing of old sins creates new things like wetlands. \$30,000 in state fines were turned over to Bear Creek and created new wetlands. There are new regulations that appropriate some monies back to the basin.

With much development in the region, is the creation of a Fountain Creek association/authority too little too late?

The Bear Creek Association was initially formulated to deal with growth and development. Growth patterns impact water quality. Do not consider Fountain Creek too late or behind the curve. At this point, an entity needs to be set up. The best suggestions are to think broadly and to get a lot of diverse minds to produce numerous ways of thinking.

Can best management practices become a regulatory requirement?

In Cherry Creek, it is regulatory. New best practices may still emerge, For example, associations/authorities are faced with finding a way to go after septic systems to reduce non-point source pollution. The group may end up in front of the water control board to see if there can be language introduced.

Do you think this mechanism allows you to leverage more dollars than another approach?

It is a good leverage tool, and there are partners that will bring in dollars. Being designated as a 501(c)(3) organization opens up a lot more options. One reason to take the 501(c)(3) route is it opens up donation dollars. South Platte has had amazing success with this.

How many times have you sued or been sued?

I cannot think of a single lawsuit. Authorities are technically subject to citizen lawsuits but it has not occurred.

Next Steps/Next Meeting

The group agreed to have their next meetings on March 25, 2008, from 12:00 p.m. to 4:00 p.m. and on April 15, 2008, from 1:00 p.m. to 4:00 p.m. The focus of the March meeting will be learning about the remaining models for potential funding and project implementation entities. The April meeting will be a group discussion about the various options with an eye toward creating a recommendation for the Consensus Committee.

**Fountain Creek Vision Task Force
Funding Options and Project Implementation Working Group
April 22, 2008
Draft Meeting Summary**

Attendance

Carol Baker, Gary Barber, Jeff Chostner, Aimee Cox, Steven Cox, Dennis Darrow, Ferris Frost, Carole Lange, Richard Lawrence, Dennis Maroney, Bob McGregor, Ron Mitchell, Annie Oatman-Gardner, Larry Patterson, Gary Rapp, Ken Sampley, Richard Skorman, David Struthers, Terri Velasquez, Chris Woodka, Niki Koszalka, and Heather Bergman

New and Pressing Issues in the Watershed

- In Manitou Springs, beginning in September, there will be a pilot restoration project to restore aquatic habitat at Soda Springs. This project is being paid for with a grant through the Department of Wildlife (DOW) Fishing is Fun program.
- The Fountain Creek Corridor Master Plan (FCCMP) team is presenting to the Consensus Committee on demonstration projects on April 25, 2008. The FCCMP team will also give a presentation to the Working Groups on May 6, 2008. The team will look for feedback from local landowners and will give a presentation at the Pinon truck stop from 6:00 p.m. to 8:30 p.m. on May 28, 2008.
- Pueblo is hosting the State of Colorado's Renewable Energy Workshop on June 8-10, 2008.

Possible Funding Opportunity for Fountain Creek (David Struthers and Richard Lawrence)

- The Fountain Creek Foundation (FCF) is composed of enthusiastic people from Florida to California. The group is committed to protecting and enhancing Fountain Creek and is actively recruiting board members and volunteers.
- The FCF emerged from the Fountain Creek Corridor Master Plan process. The formation of the FCF was contingent upon it being transparent and without any hidden agenda of any client, stakeholder, or entity.
- The FCF is currently focusing on funding for environmental stewardship projects, including education, recycling, restoration, and protection.
- The FCF has preliminary drawings for a 300-acre donation of land midway between Colorado Springs and Pueblo. This acreage will be a hub for wildlife observation and bike/walk paths.
- The FCF has \$1 million in contributions, hopes to have \$5 million by December, and would like to have the Environmental Stewardship Center open by May 2010.
- The FCF exists to be a resource to bring money to the watershed to enrich Fountain Creek, make it more community accessible, and to help teach children about the watershed and to respect it. The FCF is ready to explore every fundraising opportunity.
- The motivation of the FCF is the hard work done by the Fountain Creek Vision Task Force.
- The mission of the FCF is as follows:
 - FCF exists to encourage and promote environmental and generational stewardship of the Fountain Creek. The FCF is a united and neutral voice with a transparent process for Fountain Creek, drawing attention to the Creek's important contributions and risks to urban and rural Southeast Colorado. We, the FCF, work to promote and help finance educational, recreational and economic opportunities all along the waterway. The FCF's missions primarily carried out through fund-raising, the internet, public programs, media, partnerships, eco-tourism, and distribution of literature and construction of facilities.

1. Environmental and Generational Stewardship means to take ownership and responsibility to manage the Fountain Creek resource in a healthy condition for perpetuity.
2. United and Neutral Voice of the Fountain Creek means the FCF champions only the Creek. The FCF Board will be vigilant to start and stay neutral, while maintaining complete transparency. The Board will only recognize policies, procedures, and legislation that positively contribute to the health of the Creek Corridor.
3. Transparent means the FCF will be very visible and deliberate in the execution of the mission. The Board will be very open and forth-right in managing the activities of the FCF.
4. Contribution means the historical significance of the waterway to multiple cultures, including the importance of a healthy environment for humans, animals, and plants. It also recognizes opportunities for expanded contributions in recreation, learning, and community partnerships that have yet to be fully realized.
5. Risks include the loss of a major natural resource, flooding, erosion, and contamination.
6. Urban and Rural means universally important and appealing to every family within the watershed.
7. Encourage and Promote means the FCF will apply social, classroom, political, and media muscle to achieve the stewardship mission.
8. Promote and Help Finance means the FCF will take a lead role in procuring financial resources to achieve the stewardship mission. This will include resources to be used in construction, management, and education for perpetuity.

Questions and Answers

Is the creation of this entity recent?

Yes, the articles of incorporation were just filed.

Is the focus going to be to get urban peopling to rural areas to education them?

Yes, but also focusing on Fountain Creek and the incredible ecosystem. FCF wants to raise funds for many projects including ecotourism.

Who initiated this organization?

THK and Kevin Shanks reached out to David Struthers. David, Richard, and others then look the lead in forming the organization.

How is the Environmental Stewardship Center going to differ from the Nature Center in Fountain?

FCF aims to complement and not be duplicative with the Nature Center in Fountain.

What is the geographic area of interest of the FCF?

The FCF is mainly focused on the area of Colorado Springs to Pueblo in the short-term, but the organization hopes to expect its purview as funds become available.

Is the FCF willing to incorporate the upper watershed?

The FCF has a willingness to be open to the upper watershed. FCF has not put people in second tiers. The focus right now is to raise funds for the educational projects. This was not meant to be a message of exclusion to the other entities in the upper watershed.

Is the FCF modeled after any other organizations or funding entity?

The inspiration came from the Fountain Creek Vision Task Force and the Greenway Foundation on the Platte River in Denver. The unique aspects for the FCF are the mixture of urban and rural areas in the watershed.

Is the FCF a sole solution entity or will it look to pair with another type of entity?

Taking on all the issues discussed by the Task Force will take a mixture or combination of entities.

It seems the FCF will focus more on educational components. How will the FCF address further deterioration of Fountain Creek?

The FCF believes the only way the watershed will be maintained is by educating future generations.

In the mission statement, the word “develop” was not used with regard to education, though the word “promote” is used. Will the Foundation develop education materials or just promote education?

The FCF intends to develop materials as well as incorporate education.

How do you see this entity integrating with the Task Force’s final plan?

The FCF will need to integrate with the primary entity created by the Task Force.

Where are the 300 acres mentioned as a donation?

The 300 acres are north of the Pinon Ranch.

The Greenway Foundation often works with stormwater managers as a way to resolve flood control and environmental issues. Will the FCF consider doing something similar?

Yes, this thinking will continue as the FCF grows.

Is the FCF open to volunteers?

Yes.

Is the FCF holistic in its approach, including environmental and generational aspects, health and wellness, and safety to the citizens?

Yes, the intention is to be holistic. The FCF feels the Environmental Stewardship Center is a perfect place for the reality of the watershed to be discussed and presented.

Please explain how FCF has not jumped the gun or preempted the work of the Task Force?

The FCF was formed when the opportunity arose and the time was right. The time and place seemed logical. FCF hopes to establish a relationship with the Fountain Creek Vision Task Force or any entity to be created.

Group Discussion on Possible Funding Entity

The group discussed the information, ideas, and questions that they have taken away from the last few months of presentations on model entities for long-term funding and project implementation. The following are the highlights of this conversation; these are not consensus or group statements, but rather individual comments and points of discussion.

- In order to form an entity capable of making improvements to the watershed a reality, there will need to be political buy-in.
- Urban Drainage may be a strong model, although one area of concern is that it had to go through legislation and this took a long time. Urban Drainage and the Fountain Creek watershed encompass the same size area.
- The Chatfield Watershed Authority and the Bear Creek Watershed Association were formed by water quality management agencies. During the formation of these entities, the councils of governments (COGs) were already in power or designated and had authority over certain water issues.
- The local COGs in the Fountain Creek watershed, along with the Technical Advisory Committee (TAC), could help to envision an entity that can be taken to the legislature. Both Urban Drainage and Southeast Metro Stormwater Association (SEMSWA) deal with the regional multi-governmental approach.
- Urban Drainage was formed after the flood of 1965. It may take a flood to motivate people to create a similar entity for Fountain Creek. Without such an event, there will have to be creative thinking to get an entity adopted. There was a flooding event in 1999, this helped bi-lateral COG work and also helped establish the Army Corps of Engineers study.
- It is inevitable that another flood will occur. Using this notion to leverage support is imperative. It is also important to start organizing an entity now so that when a flooding event occurs, a vote of the people will pass.
- Enterprises and foundations do not require a vote of the people.
- No solution is going to be quick.
- There are a variety of ways to receive money from the public. One issue is that sales tax continues to decline due to internet sales.
- The Fountain Creek Vision Task Force needs to create an entity the right way by trusting the intelligence of the people. Sell the entity as green space, bike or walking paths, and bird viewing. If there was a legislative act signed with El Paso County and Pueblo County, this could have much traction with the public.
- There needs to be serious consideration to what the public is willing to spend on this type of project.
- The issue of geography needs to be addressed. If a vote of the people is needed, it will be important to identify which people are included and why.
 - Going to a bigger voting area asking for a smaller mill levy may gain more traction than asking fewer people to pay more.
 - It may be better to have whole counties vote rather than culling off a specific area where it looks like a vote would pass.

- The Fountain Creek Vision Task Force needs to start a dialog now. It could take several years to get the organizational details in order, a couple years to get the vote, and a couple years to gather money.
- A regulatory role for a new entity may be hard for the public to accept. It may be smarter to plan to keep land use regulation at the county level and use the secured funding as a carrot to encourage participation and adherence to voluntary requirements.
- Lakewood has put a storm drainage enterprise in front of the voters four times—it finally passed the last time. Aspen had a similar vote which passed 70 to 30. It would be a good idea to poll the community to see if an entity would pass by 60%. If it did not garner the 60%, more community education is needed.
- It is important the entity is marketed to help with cleaner air and water as well as habitat restoration. This is a great message for voters.

Planning for the Next Meeting

At the next meeting, the Working Group will discuss key attributes of an entity for Fountain Creek in order to help determine what the right entity might be. Key elements of this discussion are geographical jurisdiction, funding sources, and representation on a governing body or board.

Fountain Creek Vision Task Force Funding Options Working Group October 31, 2008 Final Meeting Summary

Attending

Kathy Andrew, Carol Baker, Gary Barber, Mary Barber, Jeff Chostner, Sallie Clarke, Barbara Dallemand, Cole Emmons, Ferris Frost, Dwight Gardner, Dan Henrichs, Juniper Katz, Dan Kogovsek, Carole Lange, Dennis Maroney, Cam McNair, Rich Muzzy, Annie Oatman-Gardner, Gary Rapp, Jane Rawlings, Ken Sampley, Mark Shea, Larry Small, Terri Velasquez, Barbara Vidmar, Ross Vincent, Jay Winner, Chris Woodka, Niki Koszalka, and Heather Bergman

Result of Brainstorming on Technical Advisory Group (TAC)

- The Fountain Creek Watershed Technical Advisory Committee (FCWTAC) had a meeting to discuss general issues of creating a Technical Advisory Committee (TAC) for the Fountain Creek Watershed Drainage, Flood Control, and Greenway District (the District). After finding many unresolved issues, a working group was formed.
- The FCWTAC agreed it could be disbanded as the US Army Corps of Engineers study is complete and it would be repetitive along with the District TAC.
- FCWTAC also felt the TAC and the Citizens Advisory Group (CAG) should exist independently from each other but have a liaison who may attend the other committee meetings.
- Membership for the TAC should mirror the board of directors and have six technical representatives which represent specific subject matters including agriculture, recreation, open space, water quality, ecosystems, municipal water, and federal regulation/military installation along with others. The technical experts will evolve over time and are hired to plan a budget and complete tasks.

- The goals of the TAC would need to be divided into short- and long-term goals. The short-term goals are to prioritize main projects and on-going activities as well as to secure grants and other funding mechanisms for high-priority issues. The long-term goals include input to the District staff and to recommend/review spending for specific projects.
- The technical experts on the TAC were drawn from the subcomponents of the FCVTF strategic plan. The categories listed can evolve or change. Another member would like to have land use included. The TAC felt land use was covered by the city planners. The group agreed there is value in having a different mix of technical experts. It is important to recall that technical experts are not voting members. The group agreed to include all subcomponents of the strategic plan including land use and flood control.
- Urban Drainage does have the power to change the floodplain but has never used this power. They also own nothing; all services and maintenance needs are contracted out. Urban Drainage is so powerful because it has been successful and this is the hope with the District as well.

Questions and Answers

How many of the TAC members would be members designated with specific areas of expertise?

There was not a specific number discussed but an estimate would be six to nine. These members would be a resource to be called up as needed to meet specific goals.

Is there a reason under long-term goals the language is “to input to the District staff”?

The thought was the District staff would be working for the TAC and the CAG. The staff would be preparing the budget and completing all work needing to be done. Representatives from the cities and the relevant subject areas will be working for the two groups.

Will there be a connection to the state and federal watershed authorities?

Yes, there will be a connection. As with the Fountain Creek Vision Task Force, there will be the option to participate but they will not be voting members.

Next Steps

The lawyers assisting the process will look at changes to the TAC sections and make sure all language is correct. Heather Bergman will send the updates to the group who will then submit approval, comments, and/or concerns back to Heather.

Result of Brainstorming on Citizen Advisory Group (CAG)

- The group working on the structure of the CAG focused on giving it continuity with the FCVTF. The language in the intergovernmental agreement (IGA) is basic and states the CAG would advise the board. The group also felt there should be an audit committee including some members of the CAG.
- The CAG would be made of 15 seats, 10 or 11 coming from the Consensus Committee. The person holding the CAG seat on the board is intended to be the voice for the entire CAG.
- The group felt the first CAG would come from the FCVTF. The FCVTF or the Consensus Committee should nominate two people and present these to the signatories to the IGA. The signatories to the IGA would have the choice for the first member of the CAG.
- The spirit of the overall governing board is balance and compromise. The group is asking the Funding Options Working Group (FOWG) to accept the nomination process for the CAG.
 - A member feels this process would not work politically or with the efforts of balance and compromise.
 - The group thought it would be important for the citizens to have a direct impact on the CAG. The counties will have the authority to appoint other board members and it would be important for the CAG to come from the citizens not the commissioners.
 - A member felt the ultimate decision should be made by the Commissioners. The appointment of the CAG is a sensitive one. Much thought and time has been put into making sure there is balance, equal participation, and parity with the counties and the entities. The counties would need to feel comfortable with the choices. It is important the CAG member on the board be representative of the CAG as a whole.

- A member suggests having a list of options for the CAG member to be presented to the counties. The 10-members on the CAG should offer suitable options to the counties.
 - The group agreed to have a minimum of two options to present to the counties.
- The proposal for the CAG nominations is:
 - IGA gets signed;
 - El Paso County and Pueblo County are the first signatories;
 - CAG person(s) is/are recommended;
 - Counties would appoint a CAG representative to the board; and
 - Counties would accept the 10 recommendations from the FCVTF to the first CAG.
- A suggestion was made to include the business and/or development community in the CAG and perhaps in the TAC as well. The TAC discussed this option and felt the six technical members from the cities and counties would be defending the LID and other development processes.

Questions and Answers

If the IGA were signed within a month, would the two counties consider a nomination from the Task Force?

The counties would be willing to consider a nomination but if the parties nominated are not suitable to the counties, they reserve the option to refuse appointment.

Would the CAG have nominations from any other venue other than the Task Force or Consensus Committee?

No, the pre-statutory CAG would be nominated by the FCVTF or Consensus Committee.

Will a business or development community member be included on the CAG?

It is not currently a recommendation. There are four additional, non-designated seats available for the CAG. *Note: One participant indicated that this feels non-inclusive and is sending the wrong message. The business/development community will be impacted by the District and should be included. The inclusion will provide a better representation of the community at large.*

How can the CAG be crafted to ensure that the members are not representing themselves but the community as a whole?

As with most groups, the CAG members will advocate for themselves at first and will eventually advocate for each other and the watershed or the District in general.

How does Urban Drainage deal with having professional engineers on the board?

The professional engineers remove themselves from competitions to win projects.

Next Steps

- The group agreed to add a member of the business/development community to the CAG.
- All the subcomponents from the FCVTF strategic plan will be represented in the TAC as experts to be called on as needed.

- The TAC can have a member available to attend CAG meetings as there could be clarification of technical issues needed at CAG meetings. This may not be the same person. The bylaws state the CAG will utilize the TAC when technical advice is needed.
- The CAG will nominate two of its members to El Paso County and Pueblo County to fill the seat on the board. The counties will choose from the nominations or go back to the CAG with a request for more choices.

IGA

- In November the El Paso County and Pueblo County attorneys will read through the IGA for county approval.
- The timeline challenge for the IGA is the Consensus Committee does not meet until December 5, 2008. To get legislation considered by the general assembly, it has to be turned in by December 1, 2008. If necessary, Heather Bergman will call each member of the Consensus Committee to make sure all members are on board to submit the IGA.
- Once the IGA is submitted, some of the content could be tweaked but the title would remain the same. The most important issue is to have signatory agreement with the IGA.
- The group discussed the issue of oversight and the language in the IGA. A member felt further signatories would have trepidations signing on unless there is a clear definition as to oversight. Heather Bergman will send out the language, take responses, and send the responses to Gary Barber. Gary will then take the responses to the attorney team.

Questions and Answers

What does direct oversight mean?

It means land use oversight. It is similar to the statutory powers of the Urban Drainage District.

In section 4.2, could a statement be added to reflect the intention to implement the goals and strategies of the FCVTF and the Army Corps of Engineers study?

This is currently included in the “whereas” section of the IGA. Also in section four states the intent to achieve the strategic plan of the FCVTF.

**Fountain Creek Vision Task Force
Funding Options and Project Implementation Working Group
Preliminary Recommendation to the Consensus Committee
May 16, 2008**

The Funding Options and Project Implementation Working Group has spent several months researching a number of existing approaches to managing water issues that could serve as possible models for a long-term funding, management, and project implementation entity for Fountain Creek. The following models were included in this assessment:

- Southeast Metro Stormwater Authority
- Blackfoot Challenge
- Special Districts
- Denver Urban Drainage and Flood Control District (and the Greenway Foundation)
- Chatfield Watershed Authority
- Economic Development Zones

After group discussion and deliberation, the Working Group would like to recommend that the Consensus Committee consider the following approach to creating an entity for Fountain Creek.

1. In terms of function, we should incorporate many of the elements in the model provided by Denver's **Urban Drainage and Flood Control District**. (Information about Urban Drainage follows.)
2. Ideally, the entity **should be created by the Colorado State Legislature**, as this makes it a permanent entity. (*Note: It is unclear at this time how successful such an effort might be and whether local support for such legislation could be garnered.*)
3. While we work on getting legislation passed, we should **use inter-governmental agreement(s) (IGA(s))** as the basis for an intermediary entity that can begin work on structural and non-structural efforts in the watershed. Funding during this intervening period could come from contributions from participating entities, with contribution amounts determined by a mathematical formula (such as the one used for the Army Corps study.)
4. The entity should ultimately **be funded by property taxes, and the taxing district should include all of Pueblo and El Paso Counties**. Teller County is welcome to participate as well, although it is understandable if they choose to do otherwise.
5. In order to gain taxing authority for the long-term funding of the entity, we will need to go to **a vote of the people**. Until this is successfully accomplished, funding will continue through the IGA commitments.
6. The entity should have a broad mandate to serve as **an advocate for the long-term health and viability of the watershed**. It should address issues of water quality, water quantity, land use planning, agriculture, and recreation (among others).
7. Regarding land use planning and policy, **the entity will not have regulatory or other authority**, but rather will provide best management practices and guidance about key issues that governments can voluntarily adopt. (*Note: One alternative is to allow governments to cede authority as they deem appropriate, such as giving the entity authority over planning and projects in their respective jurisdictions that are in the 100-year floodplain or within a certain distance from the Creek.*)
8. The entity should have a **plan for dispersing project funds. This plan would likely need to be dynamic over time to reflect changing funding levels and priorities change**. However, in general, funds would be divided among:
 - a. Projects that address water quantity concerns (flooding, flood control, etc.)
 - b. Projects that address water quality concerns (E. coli, sedimentation, etc.)
 - c. Projects that promote recreation (parks, trails, etc.)
 - d. Maintenance and operations of existing projects and infrastructure
 - e. Region-wide planning, best management practices, etc.
9. **Projects should be primarily focused on the Fountain Creek corridor** and along its tributaries, with additional attention to other areas as deemed necessary and appropriate.
10. The entity should have a **plan for prioritizing projects** (balancing benefits, costs, and other factors).

*Notes on Urban Drainage and Flood District
Copied from March 25, 2008 Funding Options Meeting Summary*

Urban Drainage and Flood Control District (UDFCD) (Dave Lloyd)

- UDFCD covers 1,608 square miles, has 7 Metro area counties, and 33 incorporated entities. There are 1,600 miles of major drainage ways that serve a population of 2.8 million.
- UDFCD was created by Colorado legislature in 1969 as an independent municipal corporation and operates pursuant to the authorizing statute. The Board of Directors has 23 members.
- UDFCD is funded by \$21.4 million in revenue and a mill levy.
- UDFCD has several major policies. It has monies for construction and maintenance allocated to each county based on the revenues received. UDFCD facilities and maintenance facilities are owned by local governments. UDFCD pursues multiple uses of drainage ways such as maintaining access used for hike/bike trails and to keep drainage ways open and green. The district has the authority to regulate floodplains if the local government does not. UDFCD maintains a small staff of 25 full-time employees. UDFCD partner most efforts with local governments. There is a 50% match required for construction and master plan work, but UDFCD pays 100% for maintenance work. UDFCD contracts for most services with the private sector, including but not limited to master planning, design/construction, environmental consulting, maintenance of facilities, and meteorology.
- The major program activities taken on by UDFCD are master planning, floodplain management, flood warning, stormwater quality, research, writing criteria manuals, design and construction, maintenance, floodplain preservation, and work on the South Platte River.
- When working with master planning, UDFCD addresses the entire watershed/tributaries and actively involves all local governments.
- UDFCD includes in its floodplain management duties regulating floodplain development, mapping flood hazard areas, determining maintenance eligibilities, notifying residents they are in the flood plain, conducting flood damage surveys, developing geographical information system (GIS), distributing flood warning plans, and creating rainfall/runoff stations.
- UDFCD assists communities with permit applications and stormwater compliance. UDFCD also funds and coordinates stormwater quality monitoring/analysis efforts and is actively involved in influencing state and federal laws and regulations.
- Over \$155 million has been spent on the design and construction of local projects since 1974 by UDFCD.
- UDFCD funds its preservation program with an allocation of \$800,000 from its maintenance budget. The purpose of the preservation program is to acquire available floodplain properties throughout the year. The preservation program requires a 50% match from the local government.
- UDFCD also has program activities on the South Platte River. This is the largest waterway in the district, traveling 40 miles and through 12 local governments. The program activities include capital improvement projects, floodplain acquisitions, noxious weed management, and a cross-section monitoring and analysis program.

Questions and Answers

Where did the money come from for the South Platte improvements?

The money came from a different mill levy. UDFCD obtained a mill levy in about 1986.

UDFCD allocates money on a five-year basis by county. Projects are then done in the same counties. How do you determine where in the county projects will occur?

This is a challenge UDFCD faces. Many projects involve more than one local government. UDFCD internally tracks what counties are getting money and makes sure that all counties get their fair share. UDFCD has not often been challenged on its fairness and is fortunate enough to work really well with local governments. It is helpful to have the local governments represented well on the Board of Directors.

If the majority of the population was in the upper basin, how would UDFCD deal with a project in the lower basin, which produces less income and is dealing with issues produced by the upper watershed?

The best option is to discuss all projects and issues with all local governments. In the 1980s the economic conditions were such that some counties had trouble paying the 50% cost share so the board allowed UDFCD to take on 75% of the payments.

What drove the upper-basin communities to take on the projects?

The upper-basin communities had stormwater outfall needs.

Does UDFCD create the master plans?

Yes, though the inter-governmental agreement (IGA) will specify the funding.

Does UDFCD get around the taxpayer's bill of rights (TABOR)?

No, nothing gets around TABOR.

Where does UDFCD get its revenue?

The revenue is all taxes.

Does UDFCD do hydrological modeling?

Yes, UDFCD typically likes to take the lead in all modeling in the master plan. Fifty percent of the master plans done today are updates of ones done in the 1970s. There are significant land use changes and long-term rainfall changes. The preference is not to change the hydrology in the basin.

Where do the floodplain boundaries come from?

Most floodplain boundaries come out of our own master plan.

Is it a blurred line between what UDFCD is authorized to do and what the local governments do?

Yes, UDFCD provides a funding source to governments and considers itself to be their technical arm.

How would UDFCD regulate floodplains in a county when they are not in the district?

There is not a way to control boundaries outside of the district.

Under today's circumstances, could UDFCD get the vote from the people?

No, drainage is a very hard sell.

What does Denver spend on stormwater?

A guess would be close to \$0.5 billion for the Metro area. Most cities/towns have drainage utilities, which is where UDFCD's money comes from, not the city/town capital budget.

What would be Denver's grade on its efforts with drainage?

Denver's grade would be a B+. Drainage has come to the forefront in the last few years with Fastracks. There is a plan to do \$30 million in improvements on the South Platte. Fastracks drives this.

In the criteria manual, is there a requirement to match pre-development and post-development hydrographs?

No, there is not.

When water leaves the South Platte, do communities downstream raise issues?

No, the downstream areas are fortunate enough to have huge amounts of flood storage areas.

While UDFCD does the master plans, who pays for initial construction of stormwater improvements and do they have to be built within the guidelines?

A developer may want to know why he has to take care of people downstream. UDFCD will often collaborate with the developer to take on some of this cost. This is on a case-by-case basis.

Does UDFCD pay as it goes or does it bond?

UDFCD has the ability to bond but has not utilized it.

Does UDFCD use low-impact development (LID)?

UDFCD is working with different groups on LID and is developing a brochure for the development community. UDFCD has done research in quality stormwater best management practices (BMPs) and has monitored different porous concrete and rain gardens.