

**5-2-1- DRAINAGE AUTHORITY
MINUTES OF THE BOARD**

September 26, 2007

Grand Junction City Hall, Executive Conference Room
Grand Junction, Colorado

Chairman Jim Doody called roll of the Board Members.

Board Members Present:

Dave Walker	Town of Palisade
Dave Karisny	City of Fruita
Richard Bowman	Grand Junction Drainage District
Steve Acquafresca	Mesa County Commissioner, left at 4:00 p.m.
Jim Doody, Chairman	City of Grand Junction

Also Present:

John Ballagh (Grand Junction Drainage District, Manager), **Eileen List** (Grand Junction Environmental Services Manager), **Julie Constan** (Mesa County Engineering), **Trent Prall** (Grand Junction Assistant City Manager), **Jon Peacock** (Mesa County Administrator), **Matt Heller** (Mesa County GIS), **Chris Kadel** (Mesa County GIS), **Elizabeth McDowell** (Mesa County GIS – Intern), **Yvonne Charlesworth** (5-2-1 Drainage Authority Recording Secretary), **Larry Beckner** (Attorney for the 5-2-1 DA), **Vohnnie Pearson** (Citizen)

Chairman Jim Doody opened the meeting at 3:00 p.m. He asked for a motion to adopt the agenda. Steve Acquafresca made the motion. Richard Bowman seconded the motion. Chairman Jim Doody polled the Board to accept the agenda.

The roll call vote results:	Contracting Party	Vote
	Town of Palisade	aye
	City of Fruita	aye
	Grand Junction Drainage District	aye
	Mesa County	aye
	Grand Junction	aye

Minutes:

Chairman Jim Doody asked for a motion to approve the Minutes of August 22, 2007. Steve Acquafresca made the motion, Dave Walker seconded the motion.

The roll call vote results:	Contracting Party	Vote
	Town of Palisade	aye
	Town of Fruita	aye
	Grand Junction Drainage District	aye
	Mesa County	aye
	Grand Junction	aye

Financial Report:

John Ballagh reviewed the August 2007 financials. The billboard campaign is paid for and is in progress. Currently it is on Hwy 6 three blocks east of the Clifton Fire Station. It will be moved around the first of each month. We do not have a schedule of locations. Reports are that it has gotten attention. The ad is also in the HBA Parade of Homes magazine. Everything in the budget is paid up to date. There are no unpaid bills.

There were 10 hotline calls over the weekend as a result of the rain received. They were all routed to the appropriate municipalities. Someone is digging out a trench under Exit 42. It is not known who is doing the digging. Dawn Drive called the County and the GJDD, both of whom responded. The mud was cleaned out of the ditch and the water kept flowing. There was not a major problem of flooding. The question was asked about how do calls to the 5-2-1 Drainage Authority get answered after hours and on weekends. They are forwarded to the GJDD employee on call who will investigate the problem and notify the appropriate people.

Jim Doody asked for a motion to approve the financials. Dave Walker made the motion and Dave Karisny seconded it.

The roll call vote results:	Contracting Party	Vote
	Town of Palisade	aye
	Town of Fruita	aye
	Grand Junction Drainage District	aye
	Mesa County	aye
	Grand Junction	aye

Report:

Tracing:

Elizabeth McDowell made a presentation on the project status of mapping storm water drainage, including goals and accomplishments. The mapping is being done because of the NPDES Phase II illicit discharge requirements. Digital mapping is being done because of the analysis tools available through the GIS mapping program. The information can be viewed online and data downloaded in the field on lap tops. The benefits are in analyzing the source and the route the illicit discharge will travel, and provides for quick response. It will be easier to locate the site for maintenance and for coordination of efforts between agencies – it get rid of the overlap.

Data has been collected from Palisade to Fruita. There are serious gaps that need to be filled in. There is a need for extensive field and office work yet to be accomplished. There will be the ability to identify structures and features, do searches, print maps, etc. A path between features will be traced up and down stream so the source and destination can both be found. Flow lines on the map will be included when the field information is confirmed. Not everything is connected yet, but what has been accomplished so far shows it can be done. Distribution of information will need to be figured out. So far the entities

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that will be using the information include Hazmat, the 5-2-1 Drainage Authority, and the municipalities. Additional users will need to be licensed to access the information online. An extension to the existing GIS system will need to be purchased. In the future it is planned that the system will be able to calculate flows and time it takes to get to the destination. This system can also be used for Basin Studies.

Action Items:

There were no action items.

Discussion Items:

Compilation Letter:

Paul Miller, CPA, performed a compilation of financial information. No testing was done to see if the books are right. We are covered on statutory requirements with this letter.

Transfer to a Utility:

Larry Beckner, Attorney for the 5-2-1 Drainage Authority, stated that the 5-2-1 Drainage Authority is a special statutory feature. It can raise money through assessment of fees. The entity does not have the power to assess a tax. You don't find the word utility in the statutes, instead the term enterprise is used. As an enterprise, we are able to raise money every way except through taxes. We are not subject to Tabor because we don't have the ability to tax. The 5-2-1 Drainage Authority is not subject to meeting annual determination of enterprise status if more than 10% of its funds are received through grants. There is only one other authority like the 5-2-1 Drainage Authority operating in Colorado. Its development was under the same statute as the 5-2-1 Drainage Authority. They were formed where more than one entity came together to form that authority.

With the 5-2-1 Drainage Authority, there are five taxing entities that contribute money. The money contributed to the Drainage Authority is not a tax that the 5-2-1 Drainage Authority assesses itself, so Tabor doesn't apply. The 5 entities themselves are subject to Tabor, but the Authority is not. It will always be a drainage authority and nothing will affect that status including applying for more than 10% of its gross revenue through grants. It is a Title 29 authority that is specific to drainage and water.

Steve Acquafresca asked if the Business Plan is a misnomer to refer to the Drainage Authority as a utility. Attorney Beckner responded that the concept of a utility is not addressed in the statutes. The concept that is addressed is an enterprise. The Authority would be considered an enterprise. When the Authority becomes self-sufficient, it will still not be subject to Tabor. Inspections and fees won't change the statutory status of the Authority.

Attorney Beckner continued describing that if an employee of the City or County works for the 5-2-1 Drainage Authority, those entities themselves are meeting Tabor so no special requirements apply to the Authority. There are three tests for Tabor: the entity must be government owned, 10% of its revenue is raised by grants, and it has the ability to

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issue bonds. The Drainage Authority will always meet the criteria for an enterprise. The attorney in Denver that formed the Authority agreed.

The Treasurer can put any utility fee to be collected on a tax bill and after collection can transfer the money as a fee, not a tax. It was stated that the Treasurer here is OK with collecting such a fee.

The Authority is independent so its debts do not attach to any of the 5 entities that formed it. The Authority has the ability to enter into a debt structure and can apply for grants even if they are in excess of 10% of the budget.

Under Tabor anyone who is subject to the reaches of government can challenge the collection of a fee, or anyone paying a tax. We are not subject to Tabor no matter what you do. However, anyone in Mesa County who pays the fee can challenge it.

SEMSWA has already laid the path for us to follow. If we follow it, we'll be okay. We are building a jurisdiction. We are unique.

Jim Doody asked if it takes a super majority of the 5 voting entities to assess a utility fee. By statute it is only a majority, however by the 5-2-1 Drainage Authority By-Laws, it takes a super majority. Dave Walker stated that as a Board we have been working toward having a unanimity, but as individuals we aren't there yet. Within each Board Member's entity, Grand Junction's vote isn't unanimous yet but they have come a long way. Palisade vote is 7 for 7, and the GJDD is 3 for 3. The thing that is hanging things up is a general utility fee across the board.

Dave Walker stated the Town of Palisade is okay going forward with a general fund transfer for another year but they aren't happy about it. He wants to go with the super majority to fund with utility fees. Dave Karisny stated that having the municipalities fund for another year took the pressure off the utility fee issue for now. Each of the five entities are going through the budgeting process right now. There are two entities that are looking at a sizable chunk of money to transfer.

The question was asked if the budget is considering staffing levels for 5 employees, or is it for actual work? Jon Peacock asked if there is a way to accomplish the same thing as the model now in front of us. Jim Doody stated that a Manager needs to be recruited. Jon Peacock stated we need to talk about the gap in management versus inspector capacity. It makes sense to cover with existing capacity as handled by the IGA and then hire where we're not covered. We don't have to go to 5 FTE's up front. Instead we could phase in as we go to cover any gaps. The budget is for \$996,000. It was stated that the fat needs to be trimmed.

Jim Doody asked if the budget includes permits. The answer was yes, but there is a need to discuss it more fully. Jon Peacock stated the employment of Techs would come from a

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donation from the municipalities, but Leadership is strictly the Board. The entities are no longer entities by themselves but are now the 5-2-1 Drainage Authority. Dave Walker asked if in-kind services could be donated in lieu of general funds. Jon Peacock suggested the physical manager and contract manager be hired. Julie Constan stated we don't have the capacity to inspect so we need an inspector. We have management capacity but not on the ground expertise. John Ballagh stated that if the manager is working for one of the entities, the public will view that person as working for the City or County rather than connecting solely with the 5-2-1 Drainage Authority. As the acting manager, he has this problem now.

Jon Peacock stated that at some point the Authority will stand on its own. Do we need to do it all at once or can it be phased in. We don't know how this is going to go now. Dave Walker said we need to be looking down the road four to five years. Trent Prall asked if we are taking stop-gap measures, or will it be long term. Vohnnie Pearson stated in three to five years each entity could establish how money comes out of the system. Each entity could make its own utility fee and transfer the proceeds to the Authority.

Jim Doody expressed concern that after two years of discussion, the Authority is stagnant. The Authority has the ability to do good work via a utility fee. We have gone through several options such as the Huffey bike and the cadillac. Now we are talking about regressing. Dave Karisny agreed we need to re-energize the movement.

There was discussion about when the November Board Meeting should be held. It was decided that the 28th would be the date.

John Ballagh told the Board that its members should be covered under workers compensation for travel to and from the meetings.

Read Ahead:

There were no read ahead items.

Meeting Calendar for the Future:

October 24 th	April 23 rd 2008
November 28 th	May 28 th 2008
December 26 th	June 25 th 2008
January 23 rd 2008	July 23 rd 2008
February 27 th 2008	August 27 th 2008
March 26 th 2008	September 24 th 2008

Adjourn:

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There being no further business to come before the Board, Chairman Doody adjourned the meeting at 4:50 p.m.

Jim Doody, Chairman