

**5-2-1 Drainage Authority
Minutes Of The Board
October 28, 2009
Fruita City Hall
325 East Aspen, Rotary Room, Fruita, Colorado**

Board Members present:

Dave Walker, Chairman
Mel Mulder, Vice-Chairman
Richard Bowman, Secretary
Craig Meis, Treasurer
Linda Romer Todd, Assistant Secretary

Technical and Authority Staff present:

Nathan Boddy	Town of Palisade, Town Planner
Julie Constan	Mesa County, Senior Engineer
Ken Haley	City of Fruita, Engineer
Eileen List	City of Grand Junction, Environmental Svcs Manager
Trent Prall	City of Grand Junction, Engineering Manager
Eric Mende	5-2-1 Drainage Authority, Manager
Janice McDonald	5-2-1 Drainage Authority, Office Administrator
Jesse Kirkpatrick	5-2-1 Drainage Authority, Stormwater Inspector

Guests Present:

Vohnnie Pearson	Citizen, 630 Broken Spoke, Grand Junction, CO 81504
Bud Thompson	Mesa County, Project Manager

Called to order

Chairman Walker called the meeting to order at 3:13 p.m. Roll call was taken and a quorum was declared present.

Review and adoption of the agenda:

No changes to the agenda were requested. Chairman Walker asked for a motion to adopt the agenda.

Motion to adopt the agenda: Director Bowman
Seconded: Director Meis
Motion passed with voice vote of 5-0
The agenda was adopted as presented

Consent Agenda: **Agenda Item 1 – Review and adopt minutes of September 23, 2009.**
 Agenda Item 2 – Financial Reports

Comments:

Ms. McDonald corrected the name of the attendees on the September 23, 2009 Regular Board Meeting Minutes.

Director Meis asked if the Budget Committee Meeting minutes from September 23, 2009, should be formally adopted. Ms. McDonald responded that the meeting was a committee meeting and does not

require official adoption, however if Director Meis would like that we can. Director Meis indicated he would like to have them formally adopted. The Budget Committee Meeting minutes will be included in the December 9, 2009, Board Meeting agenda and materials for formal adoption.

Director Meis also asked for clarification on terminating the current office lease. Ms. McDonald indicated the lease requires a six month termination notification prior to the end of the lease date of July 31, 2009. If notice is not made six month prior to the lease end, the Authority is obligated per the lease to stay an additional year.

Regarding the financials, Director Meis asked what the accounts receivable amount of \$67,829.22 represented. Ms. McDonald explained that an invoice is created at the beginning of the year for each entity's contribution. The \$67,829.22 represents the remaining balance for Mesa County. Mesa County does not pay their contribution until the end of the year as Authority personnel salaries and expenses are applied to offset that total contribution each month.

Motion for approval of Consent Agenda Items: Director Meis

Seconded: Director Todd

Motion passed with voice vote of 5-0

End of Consent Agenda

Added discussion: Diversification of funds between banks

Director Todd shared the Authority's bank accounts currently has more than the FDIC will insure, and that the reports coming down are not good for a lot of small banks. She has received recommendations from several entities that it is best to diversify your cash funds, and we should consider it for the Authority's funds. Director Meis agreed with Director Todd's assessment, however, he suggested this discussion should continue in the budget portion of the agenda as it may be the Authority will be using their fund balance rather quickly next year and this may not be an issue. The Board expressed their agreement.

Agenda Item 3 – Proposed 2010 Budget

- a. Budget presentation by Authority Manager
- b. Public Comment

Chairman Walker opened the public meeting at 3:22 p.m. and asked the Authority Manager to give his report. Manager Mende presented his report included in the Board packet.

Director Todd stated the City of Grand Junction's contribution will be zero for 2010. In looking at the overages, the Authority can fund the operations without contributions from any entity the next two years. Whether that is the direction the Board chooses to go or not is yet to be determined. There are many cutbacks at the City of Grand Junction, and now is not the time to spend the money on a study with the tough times we are facing. We are cutting jobs; we are cutting projects; we are cutting everything we can, and we feel like this is one of those areas we need to cut.

Director Meis clarified with Director Todd her statement 'to fund for the next two years' that is under the assumption that the funding cuts the basin master plan study for Big Salt Wash. Director Todd stated that is correct. Director Meis asked about the \$16,200 for the office lease in the 90% funding reduction column as his figures indicate it should be \$14,700. Manager Mende stated the \$16,200 figure includes \$1,500 in moving costs. Director Meis asked if the \$25K for 2009 for the Big Salt Wash was a projection

of what we were going to spend this year. Manager Mende stated that was correct, and it is based on the assumption that we have an approved contract for Big Salt Wash. Director Meis asked why no revenue was represented for that project from CWCB. Manager Mende responded based on the assumption that we receive the grant from CWCB; they do not pay until the end of the project. Director Meis continued that he was going to make the recommendation for that contract based on some type of guarantee of funding from CWCB for the grant. Manager Mende stated it was his understanding that CWCB could have funding pulled from them. At that time it wouldn't matter if they had made a guarantee or not, it will still get pulled from us. From a budgetary standpoint, I believed it was better not to include the CWCB funds in budget. Director Meis asked if the CWCB reimburses based upon dollars spent by the Authority so as soon as we spend our first dollar, we can seek reimbursement, or does the project have to be completed to seek reimbursement? Manager Mende shared that his understanding is the CWCB's reimbursement is one lump sum at the end of the project based on completion.

Director Meis shared that while we haven't had a formal discussion as far as the Board of County Commissioners yet, at least from Mesa County Administrator Mr. Peacock's presentation of the budget at this point and time, the County contribution will be zero as well. The best case scenario from the County would be the 90% funding reduction option for this year. This is largely because we too looked at the Authority's carryover as a way in which to operate during a very lean time. We are looking at some tough issues and this is not to reflect poorly on the Authority. We have tough issues and decisions to make County wide this being one of them. In lean time we have to buckle down, and use fund balance where we have it.

Director Meis continued that the other thing when considering the basin studies is that we have the Adobe Creek Study here and what are we going to do with it now that we have it? And what will be doing with the Big Salt Wash plan once we have it? To have a plan is one thing, but to have the money to fund the plan, and to the fund the improvements associated with the plan is imperative. So why do the plan if you don't have the money to do the improvements associated with it? I'm asking the TAC as well. I have a hard time funding the plan, if we don't have money to fund the improvements as well because that plan may be obsolete by the time we get the money for the improvements. It is just like a community plan. We have started making sure that when we do a community plan, we allocate resources to make sure that we can implement that community plan. Otherwise there is no point in pulling the plan together.

Manager Mende shared that he sees the plans as having two benefits. One, it provides better indication where the floodplain limits are without specifically or officially designating where those floodplain limits are located. We have made a conscious effort not to submit previous studies that have identified floodplains to FEMA so that we are not putting additional properties into flood zones and then they require flood insurance. However, what it does do is identify those areas, and it gives any of the planning departments a better understanding of how to review development proposals. If you've got information that says this property is going to get flooded, it's probably not a good place for a development. So there are some benefits to the planning departments as well as to the development community. The second thing the studies do is they identify improvements that are going to be needed in the future. If you don't have the money for improvements, I still think it is beneficial to have the information of what's needed. It helps any organization, whether it is the Authority, City, or County that moves forward with a flood control project. It helps you prioritize when the money does become available. You've got to do the study first to understand what the extent of the problem and what the estimated costs are. All of these major studies that we do have alternative assessments in them which include cost estimates.

Chairman Walker stated that before the Board moves to other specifics on the expense side of the budget; let's find out what the contributions are going to be. The City of Grand Junction is advising the Board that their contribution to the Authority for 2010 will be zero. Mesa County is looking at a zero to 10% contribution. What is the City of Fruita looking at? Director Mulder stated the City of Fruita has anticipated a 50% contribution to the Authority. Director Bowman stated that the Grand Valley Drainage District is looking at contributing at the 50% contribution level. Director Todd commented that the GVDD revenue source comes from a steady source of property tax versus the City of Grand Junction's revenue source of sales tax. Director Mulder added that Bosley Wash is really something we should consider keeping in the picture. Chairman Walker stated the Town of Palisade has budgeted 100% funding in their 2010 budget. We would, of course, be fine with a 50% reduction, but we are prepared for full funding. It sounds like we really need to start our budget workshop or any follow-up discussions that we are not going to be receiving anywhere near the same level of contributions for 2010.

Chairman Walker asked that the public hearing stay open, and we should leave this public hearing open if we need to and take additional public comments as a more realistic budget is formed. The Board affirmed their agreement.

Chairman Walker asked in regards to the budget that has been laid out in front of them with the different funding levels plus the additional information in regards to what the funding levels might actually be, what does the public have to say? Is there any public comment? No public comment heard. Chairman Walker closed the public comment portion of the public hearing at 3:51 p.m. with the understanding that we can reopen it later if we need to do that.

Chairman Walker stated that we now have to deal with the fact that we are looking at much lower, possibly zero, contributions from the contracting parties for the 2010 budget year. Director Todd suggested that we look at where the Authority's reserves are, and we move forward from there with the cash on hand. Chairman Walker reflected that the suggestion is to move forward, keeping the organization going, knowing that rather dealing with income, we are going to be dealing with savings as the operating source. Director Todd agreed. Director Meis stated if we were to vote on it today, he would vote to zero out the income, and look at the 90% reduction budget. As far as exiting the lease, from a planning standpoint, I recommend securing a lease space that any one of the entities has available to us as we all have excess lease space potentially. We then need to have a discussion about the studies. The studies are the single biggest line item, and they will take away fund balance if we choose to do them. I would say we adopt the zero percent and zero out the incomes, but we aren't here to adopt today. Director Bowman stated he feels we should look at the budget and the reserves that we have. The GVDD is very much interested in the Authority staying as an entity so we need to do whatever we can to do to move forward. Chairman Walker asked if the Authority should stay as an entity even though the activity level is going to be dramatically decreased. Director Bowman responded the Authority was originally intended to upload the NPDES permits for the contributing entities so I think there is still a benefit there. Plus as Director Meis mentioned earlier there is still the one-stop shopping for stormwater permits. In addition, dealing with one entity is better so from that aspect, I think it is valuable.

Chairman Walker asked Manager Mende to add a fourth column to the budget with zero contributions. Knowing that is a real possibility, what problems do you anticipate with the budget? Manager Mende responded that if you look at a 100% reduction, everything in the 90% reduction column will carry over to the 100% reduction in funding column. Currently in the 90% column, you are already getting rid of the office, and you are already getting rid of all the studies except Big Salt Wash. Just a quick number here as far as Big Salt Wash, based in the quick numbers I've run here, we have a budget shortfall of \$61K for

2011. If you look at the 90% column, you have a 2011 budget shortfall of \$122K meaning that 2011 cannot be funding under the 90% column. But if you add back in the Big Salt Wash and subtract the revenue in 2010 and 2011, you are still at a budget shortfall of \$61K for 2011. Getting rid of the Big Salt Wash and zero contributions for 2010 and 2011, you can't make it. You cannot fund 2011. Director Meis stated that we are only approving a one year budget here so I am worried about 2010 and 2011 is a different discussion. Obviously contributions would have to kick in order to fund 2011. I am sure we all recognize that. We are looking at using fund balance to operate for 2010 and 2011 is a different story. Both the City of Grand Junction and Mesa County have stated today that 2010 is the concern we have for contributions not 2011. We haven't made any inclination for 2011.

Chairman Walker stated that the next action item today was to look at offering a contract for Big Salt Wash Basin Master Plan. Maybe we should have that discussion to see how it affects the budget.

Agenda Item 4 – Select Consulting Firm and Authorize Board Chairman to Execute Contract for Big Salt Wash Basin Master Plan

Manager Mende stated as far as budgetary item, you don't have to make a decision today. All that does is extend the schedule out. There is not a defined schedule for the BSWBMP. So you may postpone this decision and bring it back at our next meeting on December 9, 2009.

Director Todd asked what is critical about doing BSWBMP this year when budgets are so tight. Manager Mende responded it is not that BSWBMP is so critical; it is just the next one on the list. Over the past years we have done a number of basin studies. What we have tried to do from a budget and a political standpoint is to do various studies, and we developed a list of which studies needed to come first. We did Lewis and Douglas Wash; we did Adobe Creek based due in large part on some complaints. Big Salt Wash would provide benefits to Fruita. Fruita has not been getting a lot of benefit out of the Authority for the contributions they make. They are not a permittee right now so they don't take advantage of the expenses spent on the permit program. They have gotten some benefit out of the Adobe Creek study. Part of doing the BSWMP was to show a benefit to Fruita. In addition, Big Salt Wash is in the path of development.

Chairman Walker asked the same question for the Bosley Wash redesign. Is it critical? Director Bowman stated the GVDD is interested in the Bosley Wash redesign as the Authority does not fall under the TABOR so we can do the funding through the Authority. We already have a set of plan and specifications that have been done by a registered engineer, and now we just need the modifications. Director Todd added it would make more sense to fund something like Bosley Wash which could be a construction project which would add to the economy of the County versus something that is just a study. Director Bowman reminded the others that the plans and specifications for Bosley Wash are already done. However the current plan doesn't fit the land that is being purchased by Mesa County. Ms. Constan stated there are a couple of factors. The land the County is working on purchasing doesn't match the design that was prepared. So we need to move a stockpile area and an access road. In addition, part of the detention pond is on BLM land. The County does own some land up by the Bookcliffs, and County staff is discussing the possibility of doing a land swap with the BLM. It would be beneficial to get the design done as soon as possible, but it is going to take us a little time to get through this land swapping. Negotiations and such will probably take the next 3 to 6 months. Before we can actually build the project, we have to get all the properties squared away.

Chairman Walker asked the attending TAC members if they had to cut something from 2010, what about Big Salt Wash. Ms. Constan replied that it makes sense in these times. Ms. List replied the City of Grand

Junction had recommended that Big Salt Wash needed to be eliminated. Mr. Boddy stated it seems to meet with the priority of the Authority to consolidate the permits.

Mr. Pearson asked with what the Board is proposing now, what kind of problems we are going to have with the State consolidating the MS4 permits. If I was looking at each of the individual entities' budget to take care of the MS4 permit at the State level, I would say that there is no guarantee you are going to be in existence a year from now. They've cut back their funding to zero so let them continue with their own MS4 permits and let them pay for those costs. I'm hoping that we don't get into that situation with the State, but I certainly think I would be a little nervous about it. We never formed a utility which if we had we would not be experiencing any problems at all right now; they would have 100% of their money. But they aren't a utility, so they are dependent upon each of the governmental entity's participation. That is the assurance we are trying to give to the State in order to consolidate the responsibilities of the MS4 permit. Director Todd responded that there hasn't been any indication from any entity involved to do away with the Authority. The Authority can stay intact. It is just the same as every other issue we have; we have to look at where our funding will be available. The Authority and the Board for the Authority will still be here. Mr. Pearson replied he understands that as well as the statement Director Meis made, but we have made a commitment to the State. We are worried about 2011, 2012 and 2013, and whether we are going to meet some level of commitment at least to satisfy the permit issue. Mr. Pearson asked Manager Mende if he sees a problem consolidating the MS4 permit (if there is a cut to the contributions). Manager Mende replied he can't answer that question. All I can tell you is the State has not asked for our budget information as part of the submittal process. Mr. Pearson reflected that the State has plenty of their own problems; maybe they won't look at it. Director Meis agreed that the State has plenty of their own problems. For the State to suggest anything to us about budget issues, they need to look at their own budget. Manager Mende added the IGAs and Program Description all mention continuing support for the Authority from the various entities as a commitment, but the commitment doesn't have any financial numbers attached to it.

Chairman Walker stated that we have some tough decisions to make. Does the Board want to move on with the budget hearing or move on to the Manager's Report at this time? Manager Mende asked for clarification. Since we are not having the November Board meeting, the next time you see the budget you will need to adopt it which will be on December 9, 2009. Obviously the 50% column is going away. Do you want me to leave the 70% and 90% columns and add a 100% column? How do you want me to present this? How do you want me to come up with a recommendation for the budget? Director Meis replied that you are going to have to create a 100% reduction column. You can keep the 50% as that is the TAC's recommendation. The 100% reduction column should incorporate all of the expenditures of the 90% column. The only outstanding items we have yet to discuss are the basin studies. Those are the only outstanding items that we have with regard to the 100% reduction column. Manager Mende asked knowing what you've said as concerned with 2010 versus 2011, do you still want to see that analysis and how it breaks down with or without Big Salt Wash or Bosley Wash? Director Meis replied it was up to you. It is not part of what we adopt as the budget.

Chairman Walker shared he believes we can bring this down to a simple process. It looks like the two largest contributing parties are not going to contribute to the Authority for 2010. Then let's assume we have zero contributions for 2010. Is that a fair thing to say? The Board agreed. The second part of this, we have a decision to make; do we include Big Salt Wash Basin Master Plan in the budget for 2010? It seems TAC's recommendation is to take that out of the budget for 2010, is that a fair assumption? The TAC members present agreed. Then let's make that decision right now. Director Todd stated that she is OK with taking BSWBMP out of the budget. Now is not the time to be spending money on a study. Chairman Walker asked for input from Director Meis. Director Meis stated he would like to hear from

the other Board members first. Chairman Walker stated the Town of Palisade will be going with the TAC's recommendation. Director Bowman stated he will go with the TAC's recommendation. Director Mulder stated that BSWBMP is something Fruita is looking for, but I'm going to say, no. Ms. Constan added that the TAC member from Fruita, Ken Haley, did mention in the last TAC meeting that there was at least one pretty good size subdivision being proposed in Big Salt Wash. Big Salt Wash is currently mapped with FEMA, but I am not sure how accurate the mapping is. Manager Mende stated his knowledge of the mapping of Big Salt Wash with the current FEMA mapping is basically worthless. Ms. Constan asked if there were base flood elevations. Manager Mende replied, yes; there are full base flood elevations, but I don't trust them because the mapping was done a long time ago. Director Meis asked if you could try to meet both outcomes which is eliminate the study and focus/fine tune it to just this one development. Ms. Constan replied that typically what a new development needs to do is a drainage study on their development anyways. This would be supplemental information that would take in an entire basin which isn't necessarily a necessity to make the development happen. It just makes it happen a little smarter. Manger Mende added you can't really analyze the flood impact on a property just west of Big Salt Wash or west of Fruita without knowing what is happening upstream. The drainage study for the subdivision isn't really going to cover the information you need. Director Meis asked isn't it safe to say the chances of a development actually happening in the very near future are not likely. Mesa County is taking developments off the table right now. We've had two come before us to un-plat their property. Director Mulder said he is not going to argue the timeline, but there has been a concept plan approached in the City of Fruita in regards to the Big Salt Wash. Director Todd stated she doesn't see a lot of development coming around. Financing is not there. I'm not saying the BSWBMP isn't viable for the future; I just don't see it for 2010. Director Mulder stated his comment is that BSWBMP should stay in the future. Director Meis declined to give his opinion. Chairman Walker stated that by democratic processes, the Big Salt Wash Basin Master Plan would be eliminated for the 2010 budget. When we come down to voting for the budget, we can certainly bring this up again and possibly add it back in.

Bosley Wash Redesign discussion:

Chairman Walker asked what the TAC's recommendation of the redesign of Bosley Wash. Ms. List stated that Grand Junction supports the redesign. Director Todd stated that it would be a shovel-ready project and that would be jobs on the ground. Manger Mende stated that he supports the redesign of Bosley Wash project. Having a project that is potentially eligible for some type of a large shovel-ready project grant designed and on the shelf is a good thing. Ms. Constan added it puts the Authority in a good position for the amount of dollars that are going to be expended as a relatively minor cost for its staging. Manager Mende continued this is also a project that has had a lot of participation. Mesa County has purchased property, and the original design was partially funded through CWCB. Of all of the potential projects out there, this one is the closest to actually turning into a construction project. Chairman Walker reiterated he has heard the Manager and at least two TAC members are in favor of funding Bosley Wash and has not heard any objections. How do the Board members feel about the Bosley Wash redesign? Director Mulder stated that Bosley Wash should be the one project that if we put a shovel in the ground the Authority should participate in it. Director Bowman recommended participating in the Bosley Wash redesign. Chairman Walker reminded the City of Grand Junction has already expressed their support for the Bosley Wash redesign. Director Meis indicated the Board already had three votes so his is not needed. Chairman Walker concluded that the Board would like to have the Bosley Wash redesign stay in the 2010 Budget.

Continued Budget discussion:

Chairman Walker asked if we have made enough decisions to generate a proposed budget for our December 9, 2009, meeting that could be passed. Director Mulder asked what the potential is for those parties that can contribute in 2010 do so, and those who cannot, do not; can you put in an IOU for

2011? Chairman Walker stated the budget that is being proposed is for zero contribution from all parties. Does anyone have a disagreement with that? Does anyone think that contributing parties that can contribute should even though there are several who cannot? Manager Mende stated that Mr. Ballagh has expressed concern about the GVDD's contribution for 2011 as their revenue comes from property taxes. He has expressed that they can afford their full contribution this year, but 2011 is looking dicey. Maybe there should be an option of letting the GVDD make their contribution this year knowing full well they probably won't make it in 2011 regardless of what the other entities do. Director Todd stated she cannot bring you a commitment from the City of Grand Junction, and where we are going to be in our budget cycle a year from now. Manager Mende stated it is not something you are going to be able to put on paper as a commitment. If you zero out the contributions for each of the parties, are you also recommending as a Board that the GVDD not decide unilaterally to make a contribution? For example, when I worked for the City of Fruita there were a number of times when we would have a joint construction project, and the GVDD really wanted to get that money spent in November and December. Otherwise it would affect their carryover and TABOR limits, etc. That may be something they might want to consider. Director Meis shared we are all partners in this in my opinion. If the GVDD has the ability to pay this year and not next year, it would certainly be taken into consideration next year. We all have different circumstances and revenue issues so if they want to meet their contributions for this year and next year so be it. It doesn't have to be an annual funding formula. It can be extended over two or three years, and we can remember that. Manager Mende stated he will lay out the budget as zero contributions from all the parties. Director Todd asked if the GVDD could set the funds in reserves. Director Bowman stated he did not know. Director Mulder added that in the budget reduction Fruita has already posted for its 2010 budget, we are already looking at an additional 20% reduction in 2011. These are our realities.

Chairman Walker asked if there any additional discussions that need to take place regarding the budget. Do we need to discuss the office space? Director Meis suggested making the adjustments discussed and send out the updated budget via email. Manager Mende agreed to making the budget adjustments including ending the office lease effective July 31, 2010, out via email. Director Meis reminded that notice to terminate the lease must happen in January, 2010. Director Todd suggested giving notice sooner as you never know how circumstances will play out and the space may be able to be leased out. Chairman Walker asked if there are any other discussion items for the 2010 budget. None were heard:

At 4:20 p.m., Chairman Walker stated we would continue the public budget hearing until December 9, 2009.

Continuation of agenda item 4:

Manager Mende asked for Board action for agenda item 4: Select consulting services contract for Big Salt Wash Basin Master Plan. Director Todd moved that the Authority does not enter into an agreement for consulting services for the BSWBMP as the funding has been removed from the 2010 budget.

Motion for approval: Director Todd

Seconded: Director Meis

Roll Call Vote: Director Todd, yes; Director Meis, yes; Director Mulder, yes; Director Bowman, yes; Chairman Walker, yes.

Motion passed with roll call vote of 5-0

Agenda Item 5 – Manager Performance Criteria

Chairman Walker stated this agenda item was discussed in the work session prior to this meeting. It will be put in to a consolidated format, and discussed a little further electronically over the next few weeks.

It will then be distributed to the Manager for his consideration and best efforts. Does the Board agree with that statement? All Board members affirmed their agreement.

Agenda Item 6 – Manager’s Report

Manager Mende reviewed report included in Board packet. Additional discussion:

MS4 Permit Upload:

Chairman Walker asked how long are you going to wait before you call the State. Manager Mende stated a couple of weeks. Chairman Walker asked why not call them every week? If I had been working on something that was really important to me for several years, and there is one guy at a single agency that is going to issue a response to me, I would be calling him a lot. Manager Mende shared the application was submitted a month ago. My own thought process was to give them a month, then start bugging them, and we are about there. Manager Mende asked Director Bowman when he worked for the State and was reviewing if he minded folks bugging him. Director Bowman replied, no; it was just another phone call. It isn’t going to move it to the top of the pile. Ms. Constan added you could at least check to see if it has been looked at yet, or if he can anticipate a schedule now that he has had it for 30 days. Chairman Walker suggested asking if there was anything we can start working on now. Manager Mende stated he counts it as good news that we haven’t hear anything specific, because if there was something really glaring, I think they would have been on the phone pretty quickly. I will give them a call in the next couple of days and see where we are at.

MS4 Permit Upload:

Chairman Walker referred back to the letter from Mr. Shaver from the City of Grand Junction, and asked if there is a good feeling that the enforcement issues with regard to uploading the permits will be resolved. Manager Mende replied from the City of Grand Junction’s standpoint, it appears that the City is going to give us fairly wide latitude when it comes to enforcement. There are still some specifics that need to be worked out as far issuing a notice of violation or going beyond that and issuing a stop work order which really is the key if you have a site that is just dragging their feet, you need to go into that enforcement process. Grand Junction issued a stop work order on a site a couple of weeks ago, and it took that action to get any response from the contractor. Ms. Kirkpatrick, the Authority’s Stormwater Inspector, went out and did a couple of inspections on it and filed an enforcement referral which is the current process. There was a pretrial conference which resulted in a stop work order. The Permittee was told the stop work order will not be lifted until your site satisfies Ms. Kirkpatrick. Ms. Kirkpatrick and Mark Barslund, of the City of Grand Junction, have been working with the permittee to bring the site back into compliance. In Mesa County’s jurisdiction it is going to work a little differently because the process at the County is laid out differently due to the fact that it is a statutory county versus home rule. Under the County system, in order to go forward with any type of court action, you have to bring it before the Board of County Commissioners. Also under the County’s Land Development Code, once you issue a notice of violation, you have to give that party 30 days to cure before you can proceed with any further enforcement actions. There are provisions under the County code to issue stop work orders, but my understanding is that they are pretty rare. Ms. Constan clarified the County has two different levels that apply to the Authority. The first is a non-emergency matter. A non-emergency matter where after receiving the notice of violation, is where we allow 30 days to correct the violation. Second is an emergency matter. An emergency matter that results in safety or public concerns. For example, disposing of chemicals down the storm drain that can kill fish and harm the environment, we can go right to court, and go right into an enforcement action without waiting for those 30 days. The County has some criteria in the Land Development Code that doesn’t make us wait the 30 days no matter what the level of violation. Notice of violation is very important in the Land Development Code, because it is the Colorado State Statutes that tell us we can have land development code that goes into the notice of

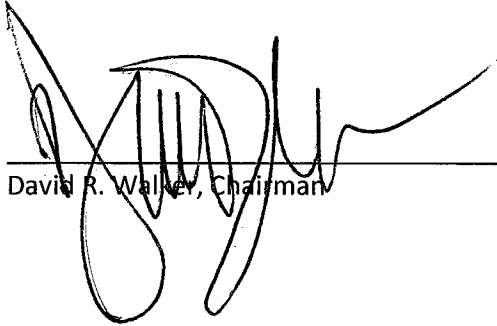
violation. The notice of violation is the key document utilized if we would take a case to court and go after criminal or civil penalties. That is why it is so crucial to us if we are going to escalate to that level, all of the ducks need to be in a row from the get go. There are other things we can do. We can revoke permits; we can decide to not issue new permits, and we have used those. We have used stop work orders occasionally so we do have some other mechanisms that we don't have to just go into a notice of violation. Chairman Walker asked if there is any effort underway to try to put together a consistent approach to enforcement even without the State telling us we have to do that. Ms. Constan replied until the Authority actual has land use control, unfortunately no, because the City of Grand Junction is home rule and the County is statutory and enforcement is just so different. We have two very different entities playing together with the same goal. Pre-activity before enforcement starts would be the same. It is just those key steps to actually getting fines assessed or taking those extreme cases all the way through the process. Hopefully we shouldn't have hardly any extreme cases. Manager Mende continued these are some of the issues that still need to get worked out. There is going to be consultation between the Authority and legal staff or TAC or code enforcement, and where that consultation happens during the process is still something that needs to be worked out. Under the City of Grand Junction system, it appears they are willing to let us go all the way through to issuing a stop work order, and then have a consultation. At the County, it is probably going to be consultation before stop work order. Chairman Walker reminded that we don't know yet if this is going to keep us from uploading the permits to the Authority.

End of Manager's Report

Director Mulder asked to give an explanation of his yes vote for the budget with the Big Salt Wash Basin Master Plan going away. I still believe the Authority can survive this hurdle that we seem to be facing as long as we can all over look the fact that we have personal gain involved in it. I think Fruita's contribution can be turned around for a Big Salt Wash study, and that may require Fruita to do their own study on Big Salt Wash. It is unfortunate we are facing this problem as we go forward here, but there is going to come a time in the future where that Big Salt Wash study will become important in the overall program. I think Fruita can proceed with its share of contribution as study dollars going into that program. So in my yes vote, I am looking at the betterment of the overall budget. I want to see this thing survive, and go forward. I hope I am setting somewhat of an example here, without any consultation, that people can understand that the Authority has a purpose. There has been an incredible amount of effort put in this program to come this far. Hence my yes vote.

Chairman Walker asked if anyone has a problem making the next Board meeting on December 9, 2009. Should we shoot for an earlier meeting to make sure we give ourselves enough time? Director Todd expressed the budget approval would probably take a significant amount of time. Manager Mende shared that potentially you may have the final IGAs to approve. Assuming that we get those back from the State, and there are not significant changes in the IGAs, they will all come to each of your individual Boards as well. I've ask the TAC members to tentatively pencil in an agenda item in your early December Board meetings with your individual Boards. Chairman Walker indicated his meeting would be on December 8, 2009. When will our staff have the IGAs? Manager Mende replied as soon as we know what any changes are. What is the minimum amount of time that you need? Would right after Thanksgiving work? Director Todd clarified this is for the approval of the IGAs. Manager Mende replied, yes. Director Todd stated Grand Junction will need the IGA 10 days before its meeting as that is when the agenda is set. Mesa County stated they need two weeks prior to their meeting. Manager Mende stated his intent is to have it at least two weeks ahead of time for all of the board meetings. Chairman Walker suggested starting the December 9, 2009, meeting at 2:00 p.m. just in case we need some extra time. All Board members agreed to move the meeting to 2:00 p.m.

Chairman Walker adjourned the meeting at 4:47 p.m. The next 521 Drainage Authority Regular Board Meeting will be held on December 9, at 2:00 p.m. at the Mesa County Courthouse, 544 Rood Avenue, Grand Junction, Colorado, in Training Room B.



David R. Walker, Chairman