

**5-2-1 Drainage Authority  
Minutes Of The Board  
March 25, 2009**

**5-2-1 Drainage Authority Offices  
575 West Crete Avenue, Suite 203, Grand Junction, Colorado**

**Board Members present:**

Jim Doody, Chairman	City of Grand Junction Representative
Richard Bowman, Secretary	GVDD Representative
Craig Meis	Mesa County Representative (arrived at 3:12 p.m.)
Mel Mulder, Vice-Chairman	City of Fruita Representative
Dave Walker, Treasurer	Town of Palisade Representative

**Technical and Authority Staff present:**

John Ballagh	Grand Valley Drainage District, Manager
Nathan Boddy	Town of Palisade, Town Planner
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
Jesse Kirkpatrick	5-2-1 Drainage Authority, Stormwater Inspector
Janice McDonald	5-2-1 Drainage Authority, Office Administrator

**Guests Present:**

Vohnnie Pearson	Citizen, 630 Broken Spoke, Grand Junction, CO
-----------------	---

**Called to order**

Chairman Doody called the meeting to order at 3:05 p.m. and declared a quorum present.

**Review and adoption of the agenda:**

No changes requested, Chairman Doody asked for a motion to adopt the agenda.

Motion for approval: Director Walker  
Seconded: Director Bowman  
In favor: All  
Opposed: None  
Motion passed with voice vote 4-0

**Consent Agenda:      Agenda Item 1 – Review and adopt minutes of February 25, 2009  
                                 Agenda Item 2 – Financial Reports**

Chairman Doody presented the Consent Agenda items one through two. Chairman Doody asked the Board, Staff and guests if there were any objections to proceeding with the consent agenda for these items. No objections were heard.

Director Bowman and Manager Mende asked that changes to minutes be made as noted on hardcopy given to Ms. McDonald. Chairman Doody requested that future checking and savings reconciliation reports include a description of the deposits. Manager Mende also shared that

Director Meis' request last month to have the contingency line item removed from the Profit and Loss Report has been done and is reflected in the February, 2009, Profit and Loss Statement.

Motion for approval of Consent Agenda: Director Mulder with requested changes

Seconded: Director Bowman

In Favor: All

Opposed: None

Motion passed with voice vote 4-0

End of Consent Agenda

### **Agenda Item 3 – Proposal to provide Inspection Services not covered by the IGAs**

Manager Mende shared that the City of Grand Junction is interested in getting our help on the approximately 170 open stormwater construction permits they have on the books. This number will probably be reduced to 110-140 as some of these permits need to be closed out. The City feels they have more open permits than its inspection force can effectively manage. The County has very few open stormwater permits, but has expressed a desire for assistance as well. For the near future, the effort needed to manage and inspect permits issued by the Authority, as contractually required by the IGAs, will be very low. The Authority has both the time and willingness to assist the City and County (and Town of Palisade) with their inspection efforts on permits they've issued, and to that end we've put together a couple options (as described below) on how we might do that. This agenda item is intended to bring the Board up to speed on the proposals being discussed at the staff level.

Option 1: The Authority Inspector could act as a 'surveillance' inspector. Under this option, the Authority would conduct inspections on a wide variety of sites, summarizing inspection findings and categorizing each site's compliance level using procedures being developed by the Authority for conducting screening inspections. These findings, as well as a compliance categorization (1, 2, or 3) would be submitted to the City/County inspectors so that the City/County inspectors could prioritize their inspection and enforcement efforts to target the sites that are most out of compliance.

Option 2: The Authority Inspector could act as a "contract" inspector for the governmental entities similar to the way that the State contracts private consulting firms to conduct inspections on their permitted sites. In this capacity, and consistent with the MS4 Permit commitments made by the City and County, the Authority Inspector would conduct only full audits, and only up to 10% of the total number of currently active sites. We would produce a full inspection report that the governmental entities could use to either issue compliance advisories or NOVs, or to initiate enforcement actions. The Authority would want to ensure that, if this option is used, the governmental entity be sure to communicate to the permittees that the Authority was conducting inspections on behalf of the governmental entity, that the site was selected by the City/County and not the Authority, and that any enforcement actions that resulted from the Authority's inspection are solely the responsibility and at the discretion of the governmental entity. In essence, the City/County would have to explicitly 'own' their own enforcement actions, and this could be done within the language of any letter accompanying the City/County notice of enforcement actions.

At this point, I'm pretty sure we could do one or the other option, but not sure we could do both. For either or both options, I would want to make sure that all parties agree that these services would be outside the IGA required services, and could be unilaterally terminated by the Authority if we felt the time commitment for these services would impact our ability to achieve our contractual IGA commitments. Assuming we are in agreement, I think a simple letter agreement at the staff level would be adequate to document the understanding and get to work.

Chairman Doody asked Trent Prall if this was a man power issue for the City of Grand Junction. Mr. Prall indicated it was man power as well as an opportunity for the Authority's Inspector to be out on sites increasing the Authority's exposure. The City of Grand Junction is currently struggling to have staff provide enough focus on stormwater so utilization of the Authority's Inspector would be a good fit. Eileen List continued that the State did an audit in November, 2008, which served as a wakeup call for the City of Grand Junction to get their inspections up to a level that will pass the scrutiny of a State inspection. Director Bowman asked if this was a quality or quantity issue for the City of Grand Junction. Ms. List stated it was both.

Manager Mende reiterated that the responsible party for enforcement would remain with the contracting parties. Time is an issue as the Authority starts to add permits of its own. There is the potential that in the future our Inspector's time would be fully utilized meeting the IGA obligations, and we won't have the time to assist on this new non-IGA work. At this time, the Authority has the time to assist and feels it is doable. The Authority can pick up screening level inspections right now. The question is how much time it will take, and we really won't know until starting the work and seeing how it goes.

Chairman Doody asked how Option 2 would work as a 'Contract' Inspector and if there is a monetary piece connected with it. Manager Mende responded the entity would request an inspection for a particular site with a work order type of arrangement, and the Authority would perform the inspection, write up a report, and send to the contracting party. At this point, Manager Mende does not see a monetary consideration. The Authority has the time available right now. This might be something to consider in the future. Fruita currently has 25-28 sites with State issued permits, and Fruita is interested in having us perform some type of courtesy inspection service for their sites. It seems appropriate to add Fruita if we are doing for it for the other contracting parties.

Eileen List shared that she believes the State has the perspective that this area has been under a compliance assistance approach and now the State is expecting us to move towards enforcement. Director Walker asked for clarification. Ms. List stated the City of Grand Junction is not at the level of inspection the State would like to see. Director Walker asked if the Authority could not do these inspections, what would the City of Grand Junction and Mesa County be doing. Trent Prall indicated the City of Grand Junction would be hiring additional resources or look at pulling other City Inspectors back to move forward with inspections. Currently, the Authority has the capacity as the 2009 level of permits/inspections is lower than anticipated.

Director Mulder stated as far as assisting in reducing the workloads, option 2 would work best. The Authority should be able to come up with a contractual agreement and it does have the ability to perform. Manager Mende added that both aspects are viable for the Authority. The State's Permit Unit Manager agreed with a 100% screening inspection for the new IGA. This

provides on-site time with each development and gets more exposure for the Authority. This is a great way to start the ball rolling while at the same time support the Authority's contributing entities. Manager Mende said it is a Board decision if they want to apply some type of additional fee. However, the salaries are already being paid and until the Authority gets to point where IGA obligations take precedence, Manager Mende didn't see the need for an additional fee.

Chairman Doody and Director Mulder both indicated the liability issues need to be worked out. Manager Mende gave the example of the State coming to a specific development site with a permit issued by the City of Grand Junction that is out of compliance. The State issues a fine to the development site and then comes back to the City for not enough oversight. If the Authority takes over the oversight role, it has some liability if the State were to hit the MS4 permit holder with any penalties, the permit holder would have an issue with the Authority. The Authority needs to make sure the services performed are done under the MS4 permit holder's permit as the Authority has never had the opportunity to review the SWMP and take responsibility for it.

Director Bowman stated that without some type of written agreement, the Authority is part of the liable party. He has no problem with the Authority doing the work as long as it has time and feels it would allow the Authority to fine tune its procedures to hit the ground running. Director Bowman stated the inspections and permits are the property of the requesting entity and the liability needs to remain with that entity.

Director Walker inquired if the additional inspections would require time commitments from both the Inspector and Manager. Manager Mende indicated it was dependent upon need. Full blown audits would require a time commitment from both the Inspector and Manager. Director Walker asked if the City of Grand Junction and Mesa County see it the same way. Trent Prall answered the City of Grand Junction agrees although the assumption is that the Inspector would be able to tackle most things.

Manager Mende suggested a staff level letter or agreement between the Authority and each entity should be adequate for the Authority to take the inspection through the screening level and issue notices of non-compliance advisories to the developers if required. Non-compliant sites would receive a re-inspection and the Authority would take on the role of a compliance advisor. If site requires enforcement action, referral would go to the entity.

Director Walker asked why not lease the Inspector and avail the Authority of any liability. Additionally, Director Walker stated his concern regarding the comment made earlier by Manager Mende, "be a good idea because the City and County are larger contributors." The financial pie was put together before this was considered and who is the largest/smallest contributor shouldn't have an effect on this decision. The precedence of the largest contributor receiving the largest amount of services should depend upon the highest prioritized level of services. Chairman Doody stated it is reflected in your vote as well. Director Bowman added that we are all in this together, we have the time to do this, and we should particularly if the State is not happy with us now. Manager Mende shared the money is in budget and personnel is available now. Currently, Grand Junction has the most need for these services.

Director Bowman stated if the inspection reports from the Authority are sent to the City of Grand Junction, put on City letterhead, then the City would still be on the hook with the State since they are the MS4 permit holder.

Manager Mende stated the strategy of oversight and auditing ideas came from Jesse Kirkpatrick and needed to give her the credit. The Authority would do the screening level inspections and rank them which would provide justification for the next level of inspection if needed.

John Ballagh suggested you would want to use a random basis for selecting sites for full blown audits. Manager Mende suggested letting the City or County pick which sites would get audited.

Chairman Doody asked if the Authority's attorney would draw up a MOU. Manager Mende stated he didn't feel it was necessary to use the attorney and would be comfortable with a letter from each entity as long as the Board is comfortable with this. Director Bowman asked that the Authority's attorney review any letters of understanding. Director Walker asked Manager Mende how he has such a comfort zone that we aren't getting into any legal issues. Manager Mende stated it was due to the fact that all of the enforcement/compliance issues will fall back to each entity. Director Walker continued, what if the City misses something or if the inspection is not done correctly? Isn't there potential liability? Director Meis responded that the liability is in the IGA inspections, and he really doesn't know if that shield really exists as we are the Authority. We are the shareholders. Director Walker asked since the Authority is general fund supported, if an inspection is done incorrectly, how is the Authority, and each of its entities, liable? Director Meis assured that there are much higher risks daily and this is the natural progression that should take place to uploading the permit process.

Manager Mende stated this process would also allow him to look at the statistics and how much time the work/inspections take.

Director Bowman asked that once the inspections are done and turned over the entity, would that take care of ending the permit. Manager Mende indicated the Authority is not involved in closeout inspections at this point although it is a logical progression.

Director Walker asked TAC members which inspection option are they favoring. Eileen List indicated the City of Grand Junction is looking at a hybrid of both plans. Director Meis stated Mesa County supports this concept although the TAC hasn't met as a group to discuss it yet, and suggests they meet and bring the details back to the Board.

Manager Mende asked if the Board supports the idea. The Board indicated its support for the concept and indicated Manager Mende should move forward with it.

Manager Mende reminded this concept is for construction sites only and does not include post-construction sites. Monday, the Authority sent out a similar proposal for the post-construction sites. The difference is the post-construction sites last forever and nothing ever drops off the list. Eileen List stated letters would be sent out to property owners stating they have to do their annual inspection and return the information to the City. Then a percentage of those sites would be inspected. Manager Mende indicated the current MS4 requirements are for audits on 10% of sites but the Authority will probably commit to a 5% inspection rate for post construction sites in the new Authority program description.

## Agenda Item 4 – Manager’s Report

### Public Education:

- The Authority provided various give-aways with our hotline # on them to the Drainage District for distribution at the Farm and Ranch Days on March 14, 2009.
- The fourth and final stakeholder meeting involving representatives from local developers, builders, contractors, and engineers was held on March 6, 2009, covering the Post Construction program. The representatives who’ve attended expressed their opinion that the process was worthwhile, and they appreciated being involved. As a group, they did not feel the need to meet again on March 20<sup>th</sup>, preferring to wait six months or so to see how it all works. We’ve committed to keeping them involved. The next step is to finalize the revisions to the Authority’s policy and procedure manual – incorporating comments from the TAC and the stakeholders, and put it into use.
- Based largely on input from the stakeholders, we developed new Authority permit forms (CSWMP submittal form and Stormwater Construction Permit form) as well as a CSWMP submittal template. After review by the City and County, these are now finalized and posted on the web site.

Manager Mende stated this was a great process. The stakeholders asked for a two-part process: the first is the SWMP submittal review and the second stormwater permit application. Each phase requires a fee instead of one at the application process per the request of the stakeholders. There was significant input on how you get rid of permit. This group will reconvene in six months to review the process.

- I provided Jessica Peterson (Mesa County) a two paragraph blurb on the new stormwater permit process for the monthly County E-Newsletter. Similar information was sent to Grand Junction and Palisade for their (future) use, and added to the Authority web site.

Hotline: There were three hotline calls in February. Two of the three involved reports of potential illicit chemical discharges, which were forwarded to Grand Junction responders. Both were confirmed as benign (one may need followup..) The third call was a private property owner being flooded by runoff from a neighboring development built in the 80’s. Nobody has listened to the guy in the past so he thought he would try us.

Billboard: The billboard is now located on Hwy 6/50 west of Mesa Mall at Ryder Truck.

Adobe Creek Channel Capacity Analysis: I met with Olsson Associate on March 10, 2009, to review the status of the project. We had expected them to present various alternatives and preliminary recommendations to the Board at the March meeting, but we are not ready. The project is behind schedule, mostly because I’ve asked for some time consuming revisions, but the delayed completion will give us a better end product. Completed survey work on the structures shows the field topography is consistently lower than aerial photography, so I’ve asked Olsson to pick up 50 additional cross sections between structures to better delineate shallow flooding areas. I’ve also asked them to evaluate order-of-magnitude size and cost to construct a large flood control pond above the canal on BLM ground capable of fully mitigating downstream flooding. This pond work is “out of scope” but I think it is valuable and cost

effective to do it now, so I've written a small change order to cover it. Review and analysis by the TAC will be in April, and presentation to the Board will be postponed to May.

Kevin Houck (CWCB) also attended this meeting and confirms the purchase order for the \$45K grant for the Adobe Creek project has gone through. We also discussed future grants, and it looks good for some CWCB participation on the upcoming Big Salt Wash study.

Orchard Mesa Study / PDM Grant: I met with Ayers Associates and Rex Burns on March 9th, to review the status of the project. This project is also behind schedule, but the PDM grant application is not due until November so the schedule is somewhat meaningless. We are well within budget. Damage Assessments (e.g., the "benefit" side of the cost/benefit analysis) have been completed for over 700 properties for the 5, 10, 50, and 100 year flood level, and five "alternatives" on the cost side have been prepared. The pond at the fairgrounds remains a key alternative, but a second critical pond alternative will require a private property purchase. After initial review, I eliminated one alternative and added two for cost analysis. A full review and analysis by the TAC will be on April 15, 2009.

MS4 Permit Upload: Also on my trip to Denver, I met with John McCarty (Executive Director) and sat in on a dept. head meeting at SEMSWA (Southeast Metro Stormwater Authority) – our sister organization in the Centennial / Arapahoe County area. SEMSWA holds the MS4 permit for Centennial and has a contractual relationship (similar to our current IGAs) with Arapahoe County for MS4 services. They are providing us with their operating procedures / manuals / agreements etc., to assist us in developing similar documents that we will need for the MS4 permit upload.

Manager Mende added that there are now three stormwater authorities in Colorado. The Southeast Metro Stormwater Authority, the 5-2-1 Drainage Authority, and the new Boxelder Creek Stormwater Authority which opened about a month ago. Rex Burns will be the Manager at Boxelder. The difference between the three entities are the new Boxelder Authority is strictly designed to take care of capital projects, the 5-2-1 Drainage Authority is all NPDES and SEMSWA does it all.

A draft "enforcement referral" procedure has been written and forwarded to the TAC for review. This procedure was written from a City/County perspective since they are the agencies that will need to adopt the procedure. I've also completed the draft Authority Program Description (the basis of the consolidated MS4 permit) and sent this out for TAC / agency review.

New Board Member from Grand Junction: Jim Doody informs me that Linda Romer Todd will likely replace Jim as our Grand Junction representative on the Board. I've spoken with her, and she has Jim's copy of the Charter Document book. I've invited her to attend the Board retreat.

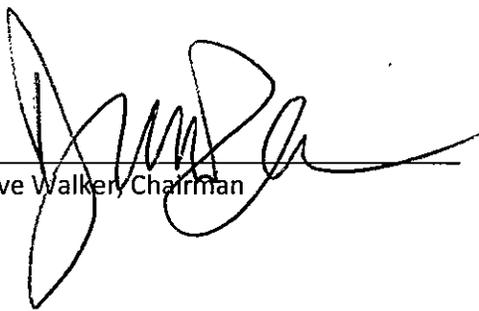
Annual Meeting Invitations: Emails were sent to State Representatives Laura Bradford and Steve King, State Senator Josh Penry, and phone calls were place to the local offices of US Senators Bennet and Udall and US Congressman Salazar inviting them to our annual meeting. I've also invited the other non-standard MS4's (Orchard Mesa Irrigation District, Grand Valley Water Users, School District 51) and the stakeholder group (AMGD, HBA, ABC, WCCA, etc) No responses yet.

Retreat: The retreat date is tomorrow - March 26, 2009, starting at 8:00 AM sharp, at the Redlands Mesa Golf Course clubhouse – lower level. A light breakfast (fruit, muffins, yogurt, juices, coffee) will be available starting at 7:45. The morning session is just the Board and Manager. Lunch (at 11:30), and the afternoon session will also include the TAC. Since there will be a quorum, we will advertise the meeting in the normal fashion. A tentative agenda is attached. Please bring your Board Member Book w/charter documents.

Directions: 2325 W. Ridges Blvd. Take Hwy 340 to Ridges Blvd. Go up about 2.5 miles. Park at the clubhouse/restaurant.

Director Meis shared that he attended the last Associated Members for Growth and Development meeting and encountered some concerns with the 5-2-1 Drainage Authority's implementation of stormwater permits and the fees. Director Meis asked that the Authority's TAC and Manager attend the next meeting to address the concerns. Manager Mende stated he would check it out.

Chairman Doody adjourned the meeting at 4:17 p.m. The next 5-2-1 Drainage Authority Board Meeting will be on Wednesday, April 22, 2009, immediately following the Annual Meeting which begins at 3:00 p.m. at the Mesa County Courthouse, 544 Rood Avenue, Grand Junction, in the third floor Training Room A.

  
\_\_\_\_\_  
Dave Walkery, Chairman