

**5-2-1 Drainage Authority  
Minutes Of The Board  
May 27, 2009**

**Mesa County Courthouse  
544 Rood Avenue, Training Room B, Grand Junction, Colorado**

**Board Members present:**

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

**Technical and Authority Staff present:**

John Ballagh	Grand Valley Drainage District, Manager
Nathan Boddy	Town of Palisade, Town Planner
Julie Constan	Mesa County, Engineer
Ken Haley	City of Fruita, City 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

**Guests Present:**

Steve Acquafresca	Mesa County Commissioner and Former 5-2-1 Drainage Authority Board Member
Bill Wilson	WRC Engineering, Inc., 1161 Primpose Lane, Fruita, CO
Kyle Sullivan	Adobe Creek Resident
Tim Hayashi	Mesa County, Developing Engineer
Deb Ohlinger	Olsson Associates, 143 Union Blvd, Ste 700, Lakewood, CO
David Krickbaum	Olsson Associates, 143 Union Blvd, Ste 700, Lakewood, CO

**Called to order**

Chairman Walker called the meeting to order at 3:02 p.m., and declared a quorum present. Chairman Walker noted Director Meis' excused absence from the meeting, and Steve Acquafresca's attendance representing Mesa County.

**Introduction of Visitors and Guests**

Chairman Walker asked that each individual introduce themselves to the group.

**Review and adoption of the Annual Meeting agenda:**

Chairman Walker indicated that several Board Members have asked to add items to the agenda and recommended the agenda be modified as follows:

- Item 6 – Discussion of review process for Authority Manager
- Item 7 – Report from Director Todd regarding Washington DC visit and federal agencies
- Item 8 – Director Bowman has several items to discuss regarding the GVDD
- Item 9 – Manager's Report
- Item 10 – Presentation on Adobe Creek Channel Capacity Analysis

Motion for approval of agenda with modifications: Director Mulder  
Seconded: Director Bowman  
Roll Call Vote: Director Bowman-Yes; Director Mulder-Yes; Director Todd-Yes; Chairman Walker-Yes  
Motion passed 4-0

**Consent Agenda:**       **Agenda Item 1 – Review and adopt minutes of April 22, 2009**  
                                  **Agenda Item 2 – Financial Reports**  
                                  **Agenda Item 3 -- Authorization to conduct Motor Vehicle business**

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

Ms. McDonald stated Ms. Constan's edits to the April 22, 2009, minutes were not included in the draft minutes in the Board Packet. The TAC was sent an updated version earlier today and the Board has a set of minutes with Ms. Constan's edits highlighted. This edits should be included in the approved minutes.

Motion for approval of Consent Agenda Items with edits to minutes: Director Todd  
Seconded: Director Bowman  
Voice Vote: Director Bowman-Yes; Director Mulder-Yes; Director Todd-Yes; Chairman Walker-Yes  
Motion passed with voice vote of 4-0

End of Consent Agenda

**Agenda Item 4 – Approve Annual Audit**

Manager Mende presented written report in Board packet. Mr. Acquafresca stated he sees the value in carrying the funds not used in studies in the current fiscal year to the next fiscal year given the current economic status of the contributing parties to the Authority. He also understands the need to get the studies done. Chairman Walker asked if there were any additional questions from the Board regarding the Annual Audit. No additional questions heard.

Motion for approval of 2008 Annual Audit: Director Mulder  
Seconded: Director Todd  
Roll Call Vote: Director Bowman-Yes; Director Mulder-Yes; Director Todd-Yes; Chairman Walker-Yes  
Motion passed with voice vote of 4-0

**Agenda Item 5 – Draft Letter to Federal Representatives**

Manager Mende presented overview of written report and letters included in the Board packet and asked the Board for any edits or inclusions to the letter. Director Mulder indicated the letter did not highlight a request for monies like the 2005 letter. Chairman Walker asked if the BLM was included in the letter sent in November 2005. Mr. Ballagh stated the November, 2005, letter did not go to the federal agencies; they only went to the elected representatives and a list of key staffers. Director Todd stated the timing is appropriate to send the letter and set up a timetable to meet. Director Todd added it is best to send the letter electronically as the hard copy letter goes to a central office and takes 5-9 weeks for the appropriate person to receive it. Chairman Walker asked if the federal agencies have a grasp of what the Authority's responsibilities are. Director Todd responded they have an outlying

concept but no clue as to the effects they have on our community. This is a conversation that needs to get started and will last several years.

Director Bowman asked Director Todd if the content of the letter is OK based on her conversations with those in Washington DC. Director Todd stated yes, but we need to follow up with them individually. Chairman Walker asked Director Mulder if he felt the letter was strong enough in regards to the unfunded mandate. Director Mulder stated he feels the letter needs the following statement, 'Gentlemen, we need your assistance and your money.' Mr. Acquafresca stated the second page, first bullet of the letter states, 'Grants or matching funds,' are needed to comply with the NPDES requirements. Director Mulder responded that is a nice way to ask for funds.

Director Todd shared that Congressman Salazar is aware of the unfunded mandate and our need for funding. His response to Director Todd was, 'You know Linda, there are a lot of other people out there that think we need to clean these waters up.' Mr. Acquafresca stated the question is regarding unfunded mandates. The Authority is supportive of implementing water quality as well. Mr. Acquafresca is concerned if we send this letter to the federal agencies, we are giving them a heads up that we are asking for additional funds. Federal agencies don't want congressman telling them how to spend their monies. Mr. Acquafresca suggested the Authority send a different letter to the federal agencies as they don't set policy; the congressional and senate offices set policy. Chairman Walker asked what the local BLM office could do if they were a cooperating party. Director Todd stated she did not have the answer, however, she received a positive response during her discussions with these folks and they seemed open. She has had a short conversation with the forest service but most of the federal agencies are career people and they shut you off. The majority of these agencies are not moving forward with any policy at this time as they have not made their new political appointees yet. Mr. Acquafresca shared that federal agencies can contribute money and that is what they fear. Congressional offices could direct monies from current expenditures and direct agencies to assist with the Clean Water Act. Federal agencies have never had to contribute to the Clean Water Act, and they have many other things to do. Giving them a copy of this letter allows them to prepare to deflect any possible directives from Congress.

Mr. Ballagh suggested sending a different letter to the agencies which would put them on notice without spilling our whole hand. Mr. Acquafresca agreed and stated dialogue is important, but the federal agencies don't have the ability to help or act without a mandate from the folks in D.C. Manager Mende stated the agencies could assist with flood control through land use agreements for detention ponds and maybe this is what should be included in the letter to federal agencies. Mr. Acquafresca stated the last two bullets in the letter on page 2 referencing sponsorship and/or support for land use agreements and grants, cost sharing or matching funds for construction of flood control structures are excellent to use to enter into a dialogue with these agencies.

Chairman Walker asked who this letter is going to go to. Director Bowman suggested Senator Udall and congressional representatives. Director Todd added the letter also needs to be sent to the appropriate committee chairs as well. Mr. Acquafresca suggested sending the letter to key lead staffers and advisors in the congressmen's offices. Chairman Walker asked if we need to also send the letter to the local representatives. Both Mr. Ballagh and Mr. Acquafresca agreed that the letter needs to be delivered to the local representatives, and suggested that hand delivery personally by Manager Mende is the best way to deliver.

Chairman Walker asked Director Mulder if he was happy with the wording in the letter. Director Mulder stated, yes, and felt the multiple delivery method would reinforce the issue. Director Bowman asked for

the following changes in the letter: 1) The words unfunded Federal mandate be bolded in the letter as it was done in the November, 2005 letter; 2) Last paragraph on first page the words 'federally managed' be changed to 'federally owned and managed;' 3) First paragraph on second page the remove 'We believe' and start sentence with, 'The federal...', and add the word 'unfunded' in front of federal legislation. Mr. Acquafresca asked that in the third paragraph, the sentence starting, 'Little funding...' that the word 'Little' be removed or replaced with, 'Insignificant,' and that the word, 'We' in the next sentence be changed to, 'The Drainage Authority.'

Chairman Walker asked they were any additional changes requested for this letter. None heard.

Motion for approval of letter being sent to congressman, their key staff and local representatives with above referenced changes: Director Todd

Seconded: Director Mulder

Roll Call Vote: Director Bowman-Yes; Director Mulder-Yes; Director Todd-Yes; Chairman Walker-Yes

Motion passed with voice vote of 4-0

Manager Mende stated he would prepare a different letter primarily to the BLM and send out the drafts via e-mail to the Board. Chairman Walker asked why just the BLM. Should we not try to pull other federal agencies in? Director Todd indicated it was just to start the conversation and she was not adverse with including the other agencies and having more of a town hall meeting, but felt the BLM had already opened the door with an invitation. Manager Mende stated it made sense to start with those who have opened the door. Chairman Walker inquired if the other Board members were OK with this concept. Directors Bowman and Mulder indicated they were in agreement.

Director Todd stated we needed to arrange a meeting time when the BLM representatives were here in town. Manager Mende asked if the Board wanted to be part of this meeting. Director Todd indicated she felt a conversation with our TAC members to start the discussion would be a good way to start the conversation. We are initiating a process that will take several years and the BLM currently has a relationship with Julie Constan and Eileen List.

Chairman Walker asked the Board if they all wanted to sign the letter to the congressman. They affirmed they all wanted to sign the letter.

#### **Agenda Item 6 – Discussion of review process for Authority Manager**

Chairman Walker stated the one-year review of the Authority's Manager is due. How would the Board like to set this up? The Board agreed to meet in Executive Session one hour prior to next meeting, 2:00 p.m., on June 24, 2009, to perform review with Manager Mende.

#### **Agenda Item 7 – Report from Director Todd regarding Washington DC visit and federal agencies**

Director Todd was recently in Washington, DC and had the opportunity to speak with senior BLM staff. Director Todd presented the issues of the Authority and its unfunded mandate to Carl Rountree. Sally Wisely was also sitting at the table and suggested a meeting with the Authority. Director Todd felt it was a great start to a continued conversation with the BLM and stated we needed to follow up with these individuals. In addition, Mr. Rountree, Ms. Wisely, and Ms. Catherine Robertson need to be added to the names on the letter going out to the BLM.

Director Todd asked Manager Mende if the Feingold bill (Clean Water Act Restoration, S. 787) expands the Authority's responsibilities. Manager Mende stated not at this time. If NPDES Phase II regulations were to go down to that level within all urbanized areas there would be the potential, but not without additional legislation. Director Todd indicated the current bill includes the word 'navigable' waters and the Feingold bill wants to remove it. Mr. Ballagh stated there are other reasons beyond this organization that navigable is being taken out.

**Agenda Item 8 – Director Bowman has several items to discuss regarding the GVDD**

Director Bowman informed the group that the Grand Valley Drainage District is in the process of negotiating and solving the drainage problems on South Mesa Street, off of the Kokopelli shopping center in Fruita. This is a multi-jurisdictional project with the City of Fruita and Mesa County. Chairman Walker asked if the Authority could have assisted in this project. Director Bowman stated yes, if the Authority had the funding for the project.

Director Bowman indicated he recently spoke with Jim Langford, a local engineer, who was complaining about the permitting process through the Authority. Mr. Langford indicated the new permitting process was taking a lot more time and expense than in the past, and there was a lot more owner requirements than in the past. Director Bowman stated it was becoming clear to him that the local developers and engineers are thinking this is a brand new requirement when it is not. Past review and enforcement was more relaxed than what the State requires, and what the State will be expecting from the Authority when it takes over the permit. When the State came over to review the City of Grand Junction and Mesa County, were some contractors fined? Ms. List and Ms. Constan stated, yes, there have been sites fined within the Grand Valley. Director Bowman continued by thanking Manager Mende for doing a great job meeting the State requirements. There needs to be more dialogue with the local engineers and developers to help them understand this is not a new requirement. Mr. Langford commented on the Douglas County Manual and thought it was good as it was very explicit and descriptive and also available electronically. Director Todd asked why we have to go to the east slope and for this thick manual. Bear in mind the volume of the manual. Director Bowman stated the comments he received is that the current manual is not as useful as the Douglas County Manual.

Chairman Walker asked if this is the manual in the Manager's Report. Manager Mende stated the Mesa County/City of Grand Junction Stormwater Management Manual (SWMM) is the regulatory document for the Valley. Chapters 15 and 16 address the permit issues. The TAC and the Authority will be updating those chapters to reflect what the Authority is actually doing. There are some text changes and streamlining of processes. The idea of creating a reference resource for BMPs was Jim Langford's idea originally. The idea was to expand the references they can use in their SWMP, and this would take a lot of bulk out of the SWMP plan. Ms. Constan indicated the TAC is concerned about this concept. The way the SWMM is set up now, the engineers are required to determine the best BMPs for the site. If they choose one out of an Authority reference manual, they can say it was your manual and it's not their fault it didn't work. We weren't ready to do this due to the possible liability. It doesn't let the community take a look at the site and determine what would work best in their professional opinion. In addition, a new manual would allow us to take on too much liability.

Director Bowman indicated that Mr. Langford's concerns were more of a learning curve. Manager Mende stated Ms. Constan's concerns are very valid. No one wants another regulatory document. Mr. Mende indicated this could be resolved by creating the manual as a reference guide instead of a regulatory requirement. Ms. Constan indicated the State does not reference The Urban Drainage Vol. 3

Manual. Chairman Walker asked that this subject be made a future discussion item. Manager Mende indicated that the TAC met yesterday and we are moving forward with a redline draft of chapters 15 and 16.

Director Bowman indicated he had one more item to bring before the Board. Director Bowman would like to discuss doing drainage studies and what the Authority is going to do with them once the studies are completed. Bosley Wash study was completed by the GVDD, and they would like to move forward--possibly with matching grants or land acquisition. The GVDD Board would like this to be a future Authority Board discussion item. Chairman Walker asked that this be a discussion item for the next Board meeting. Mr. Acquafresca asked if the GVDD wanted this elevated in priority. Director Bowman said, yes, at least in discussion.

#### **Agenda Item 9 – Manager’s Report**

Eric presented the highlights of the Manager’s Report in the Board packet. Chairman Walker asked who is writing the SWMM updates. Manager Mende responded he was writing the first round of edits and updates, then the TAC will review, and then chapters 15 and 16 will go through a stakeholder process.

Manager Mende asked for the Boards OK to purchase ArcEditor software to perform mapping updates. We have ArcView, but ArcEditor is needed to edit the underlying geodatabase information. It is an unexpected \$6,300 expense that would be offset by cost reductions in other areas. Ms. Constan indicated as of this afternoon, her department now has a desk available for use by the intern doing the mapping. In addition, Ms. Constan said the County may have a copy of the needed software available for use. Manager Mende indicated the Authority would be performing mapping updates yearly which would mean the purchase of the mapping software would be needed in the future anyway. Director Todd asked what budget line items would be offset to absorb this expense. Manager Mende indicated most likely professional development and office supplies. Chairman Walker indicated that since this is non-budgeted \$6,300 expenditure, he would like to explore the option of using County’s resources first. Director Todd asked that this item be brought back for discussion next month with all available options.

#### **Agenda Item 10 – Presentation – Adobe Creek Channel Capacity Analysis**

Representatives from Olsson Associates presented the findings, alternative, costs, and recommendations of the Adobe Creek Channel Capacity Analysis. They provided a handout with this information as well.

Manager Mende asked the Board if they had a preference as far as meeting space for the Board Meetings. Do they prefer the 5-2-1 Drainage Authority conference room or the Mesa County space? The Board indicated their preference for the larger Mesa County space as long as it is available and at no cost to the Authority.

Chairman Walker adjourned the meeting at 5:01 p.m.

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David R. Walker, Chairman