

**5-2-1 Drainage Authority
Minutes Of The Board
September 23, 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
Craig Meis, Treasurer
Linda Romer Todd, Assistant Secretary (arriving at 3:12 p.m.)

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

Called to order

Chairman Walker called the meeting to order at 3:08 p.m. Chairman Walker called roll, and declared a quorum present.

Review and adoption of the agenda:

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

Motion for approval of agenda: Director Mulder

Seconded: Director Meis

Motion passed with voice vote of 4-0

Consent Agenda: **Agenda Item 1 – Review and adopt minutes of August 26, 2009.**
 Agenda Item 2 – Financial Reports
 Agenda Item 3 – Big Salt Wash Contract Approval

Manager Mende gave an overview of the consent agenda. The Authority put the RFP out in early August, 2009. The review team included Ms. Constan, Mr. Ballagh, Mr. Haley, and me. Each proposal was evaluated independently and ranked on the technical side. The total of those ranking scores were totaled and then divided by four to come up with a total score and final ranking. URS was the highest qualified technically ranked proposal. The cost envelope was then open to see if they were in budget. It was within budget and we've accepted that. Director Meis asked if the top three's cost proposals were

opened. Manager Mende responded, yes; the top three proposal costs were opened. Under the two envelope system, unless there are significant differences in the costs, generally we select a proposal based on the most technically qualified. Director Meis asked how much the other two bids were. Manager Mende responded that URS was \$156K, Ayres was \$154K and WRC was \$171K. Chairman Walker asked Director Meis if he would like to pull this agenda item out of the consent agenda for more discussion. Director Meis stated, yes.

Motion to remove Agenda Item 3 from the consent agenda: Director Meis
Seconded: Chairman Walker
Motion passed with voice vote of 4-0

Motion for approval of Consent Agenda Items with removal of Agenda Item 3 -- Big Salt Contract Approval: Director Mulder
Seconded: Director Bowman
Motion passed with voice vote of 4-0
Roll call vote: Director Bowman, yes; Director Mulder, yes; Director Meis, yes; Chairman Walker, yes.

End of Consent Agenda

Agenda Item 3 – Big Salt Wash Contract Approval

Continuation of discussion. Director Meis asked if the Authority gave any kind of treatment to local contractors. Manager Mende responded, no. There was no preference for locals. There was an evaluation item that was 5% of the technical evaluation score on performance on past projects and another evaluation criterion was familiarity with the project and the area. There was no preference given to locally based consultants. Director Meis stated he has a concern with that. Obviously it is not everything. I don't think it should overweight price and technical capability, but it should be something we are looking at. Especially in these tough times when we are spending tax payer money. We have local contractors that can keep that money local. I would certainly think we'd have some preference for that. Chairman Walker asked if all top three submittals were qualified submittals. Manager Mende stated, yes. Chairman Walker continued, if all three of the submittals were exactly the same price then any three, in the staff's opinion, would have been a reasonable, competent contract. Manager Mende stated, yes. The top five or six were more than technically qualified to do the work. Chairman Walker asked if there was a local company in the top five ranking. Manager Mende stated, no. Chairman Walker asked if there was a local company that bid on the project. Manager Mende stated, yes; there were four or five. Chairman Walker asked what the bids of the local companies were. Manager Mende stated that those bids were not opened. When we discussed how we were going to evaluate the proposals at the TAC, it was a TAC decision that we go ahead and look at the technical proposals and not the costs as an evaluation item for the proposals. So the evaluation was based on technical qualifications only. We left it open to ourselves to open cost envelopes if we chose to do so. Once we'd completed the technical evaluations and we had a consensus agreement on what the highest ranked technical proposal was, we opened the cost envelope. Then we open the next top two bids, but the decision had been made based on the fact that the first one was within budget. That is the process that we as the TAC identified as the evaluation process. If there is a different evaluation process that you would like us to use in the future then you need to give us that policy direction. Cost did not play into this selection other than if it was in budget or not. Chairman Walker stated that the process seems so odd to me and in the private world that would never fly. You have to at least look at your costs, your options. It's like going to shop for something and not bothering to walk around the aisle to see what else is there. Am I misreading this? I guess I don't understand. Manager Mende answered that it depends on who you talk to. From a

municipal standpoint, invariably it is the lowest bid that gets it on a construction contract. For a consulting services agreement, if you talk to almost anybody in the engineering consultant world, they would rather have it based on a technical evaluation rather than on cost criteria. The general opinion being that you are getting the best quality of services, and it is worth maybe a bit more than the lowest bid. Director Meis stated if the scope and technical capabilities are the same, you obviously look at costs. You are right; you definitely want the technical piece to be a big part of it. It is hard for me to swallow the local preference piece. It's not that I am suggesting that we should pick locals over technical capabilities or cost, but if apples and apples match or come close, then I'll go local every day of the week. The local preference, in my opinion, should at least warrant opening the cost envelope to look at cost. That should be the criteria for opening the envelope. Director Todd added the City of Grand Junction has a similar philosophy. If there is something close and could be local, it is certainly going to have that as an added strength on the table.

Chairman Walker asked if this evaluation process was a TAC decision and wants to hear input from the TAC. Ms. Constan stated she was not at the meeting where the decision was made on which proposal to choose as she was out ill. I did rate all sixteen of the proposals and submitted that via email. Manager Mende stated the decision on how to evaluate was done a month before and you were at that meeting. Ms. Constan stated she did not remember that. Typical what we have been doing at the County in regards to submittal on our request for professional services since the economy started tanking and seeing 16 to 20 submittals on a project is not uncommon, we have been ranking them. We rank based off the technical criteria. The criteria sheet that was used for this process was actually based off of a Mesa County form we developed recently. We don't necessarily have a set number of proposals that we open though. Typically what we do is, we go through and try to open all the costs on the proposals that we definitely all feel are capable of doing the project. Sometimes on some projects depending on what type of project it is, like on our sewer projects, we may only have three or four firms out of ten that are really qualified to do the job. So we would open those three or four. On some of our road design projects were five or six are qualified to do the job, then we have been opening the cost on more of them because we're really trying to make our dollars go as far as we can as long as we are comfortable with those firms. That discussion may have happen in a TAC meeting before we actually reviewed the proposals, and we didn't know if they were all going to be qualified or not. Chairman Walker asked if all of the submittals were technically qualified. Manager Mende answered of the sixteen proposals received, we didn't state specifically in our evaluations this is a non-responsive or not technically qualified proposal. We ranked them 1 through 10 in various categories, and then we summed the rankings. Of the sixteen proposals, the top ten are probably technically qualified.

Chairman Walker asked what if you had a proposal at \$156,000 that has your best level of technical support but maybe you have a proposal for \$120,000 that is 15% less technically qualified. Manger Mende stated that was not part of the evaluation. That was a group decision of the TAC. In the past when I've done this when I was at Fruita, I built costs directly into the evaluation. That was not the decision of the TAC to do that. Chairman Walker stated that it seems odd. As a small business person I would be really interested in every one of those proposals both the technical and the dollar cost associated with it. Is the situation where you didn't want to open the actual bid because that low number bid might make you would feel obligated to accept it even though the technical qualifications from that company would not meet your best standards, is that the consideration? Manager Mende stated that if you do the two envelope system, it is infinitely defensible. It is the most technically qualified firm within budget. That was one of the things the TAC did look at was the defensibility of our evaluation process. As far as no other cost envelopes being opened or whether we didn't evaluate them as far as getting a better value but we still get almost the same quality, I'll ask the TAC. Director Meis shared that if the media was sitting here that they would have a field day with this discussion. Basically,

what you are saying is a local contractor can submit a proposal, but we may not open it if they don't make the top three for technically qualified. Why didn't you just tell those vendors they weren't technically qualified so they didn't waste their time bidding on the project. Manager Mende stated that you cannot do that. Director Meis stated that if they are technically qualified, you should open that envelope. Director Todd added that going one step farther, I really have concerns that with as abruptly as some dynamics of businesses change is that maybe they weren't technically qualified before maybe they've hired someone that they aren't having to pay as much within their system, but is technically qualified. If you do not open that envelope, and making that part of the whole review process, I think you are short changing the people who are spending the time to even bid the project. Manager Mende stated he doesn't disagree with anything you are saying. Mr. Haley added we did rank the proposals and determined who was qualified, but one of the other things we put a lot of consideration into was project approach--how they were going to do the job. We got different levels of comfort for what we are actually going to get out of the contract. So it is not necessarily an apples to apples comparison. The firm we ranked the highest was the one that was not only most technically qualified, but also was familiar with the project, the finished product is what we were looking for and that played a lot. When we opened the top three proposals we didn't think for a thousand dollars less it was worth going with a less qualified firm. Chairman Walker thanked Mr. Haley for his comments.

Manager Mende stated he doesn't disagree with any of the comments the Board has had at all. If there is a specific process that the Board wants to use in future evaluations, please let me know. That was not the discussion that we had at the TAC level, and the decision was made as a group on how we were going to do the evaluation. Don't shoot the messenger. Director Mulder stated he thinks the explanation was pretty clear. The rankings were compared and discussed yielding a consensus by the TAC of URS Corporation, and when the envelope was opened, the money was in the ballpark. Mr. Haley added that although this project does not have any federal dollars or grant dollars associated with it, almost all federal requirements for projects require a certain procurement process for professional services that require you not to consider costs. If this was a project we were using federal dollars for, they would require us to go through the same process. Chairman Walker stated he understood. As one of five here, and the smallest of five, I can't imagine entering into a contract at our level and not having dollar consideration on every single one. I just don't think we are that sophisticated. My comment to the federal requirements is shame on them. The economy is way too different right now that anyone really should take that attitude. Mr. Haley agreed and stated the City of Fruita is small too. We have struggled with that on a couple of projects and said we want to know the pricing. They say we aren't going to reimburse you the grant dollars for these services. Chairman Walker shared that it's funny a couple of years ago with the way the economic environment in Mesa County was we would be lucky to get two or three bids on something. Of course now everybody is hungry, so you get sixteen bids now. This seems to be an opportunity to take advantage of a more competitive environment whether that transfers into the engineering environment, I don't know. Manager Mende stated it definitely does. Director Meis stated, we are trying to gain value from the economies of scale that we have currently, and getting sixteen bids is a good thing so now there is some competition. When we limit it to three of which we're opening, we don't even know what the other qualified firms have to offer and maybe we're missing out on a 10% to 20% savings from an equally qualified firm that could easily do the job. I struggle with it to be honest with you. If they make that technical qualification threshold, we should at least be giving them the honor of opening their bid. I agree with you that the scope of work and what their process is that they are proposing is a big key, but we should at least give them the respect of opening their bid for how much time and effort they put into it. I struggle with opening just three bids. Chairman Walker added that if this was your money, you'd open all of those bids. You'd open them, and think OK this one is \$10,000 less, can I live with this level of expertise, or they don't have this or that. You'd look at all of them.

Manager Mende stated he had conversations with about half of the firms between the time we made the decision and today. They wanted some feedback on how their proposals did. There was not one of them that objected to the process that we used—meaning based on technical qualifications only and then opening the cost envelope. A lot of engineering companies support that approach, because they don't want to compete on price. Mr. Prall shared that he was the one two years ago who pushed for this process and developed the two envelope process at the City of Grand Junction. You come up with your most technically qualified one then open that up and if that meets it then you're good to go. So the other day when I was sitting in on this meeting waiting for other TAC items, I was going timeout guys, do you open those other top two? That then begs the question, why not do seven. For the last ten years the City of Grand Junction (on engineering contracts) if all things are even (approach, etc) going out we might open more than one proposal. But so far on the big stuff that we have farmed out, there was only one firm that proposed or one firm that was head and shoulders above everybody else. Director Todd stated that two years ago we were in a different scenario, and I think we have to take that into consideration. Chairman Walker verified with Mr. Prall that they would only open one envelope of the best technically qualified proposal and open just the one envelope? Mr. Prall responded that procurement for professional services, as pointed out by Mr. Haley, the feds are looking towards that approach and on the consulting side of things that is also the way they want to be evaluated. They want to be evaluated based on their project approach, their project team, their team qualifications, project management, the public involvement, and all the other components that go into their proposal. They want to be evaluated on that, and then you open up the price and make that decision. Director Meis agreed with the process stated by Mr. Prall as you don't want consultants coming in and buying the project. Chairman Walker asked why you wouldn't want consultants coming in and buying a project. Director Meis responded that the consultants will change order you to death, and they'll do a half-hearted job so you want to know their approach, you want to know the people they are using, and I agree with that. But I will say I don't think we've fully assessed the number of technically qualified folks applying for this job to best capture the dollar savings for this project. I think we may be leaving money potentially on the table, I'm not saying we have. We may have selected the right company, but we don't know from all the other technically qualified. The local contractors are something I will always give some credence to when it comes to comparing apples to apples. I will keep money in this community and take heck for it every day of the week, and be happy to.

Director Mulder stated we have two questions. Do we want to accept, reject or revisit this particular bid from URS, and Manager Mende asked if the Board wanted to change the policy for reviewing evaluations. The second question may be a TAC question that we need to have with each of our TAC representatives on bid awarding. I do agree that the dollar amounts should have been opened, and then the proposals should have been sorted by points. Chairman Walker asked if Director Mulder was referring to both financially and technically certified, and Director Mulder stated yes.

Manager Mende added there are a couple of ways we can do this. If the Board wants we can revisit and as a TAC we can come up with a short list of technically qualified proposals. We can open all of those cost envelopes. Make the decision strictly based on cost or a combination of cost and technical qualifications. I need direction from the Board on which way to go, or whether you are just going to say OK, go ahead with URS. Director Mulder stated we need to open costs first and then evaluate on technical qualifications. Chairman Walker stated that we need to give the Board a chance to respond and Director Mulder offered the question of what are we going to do with the contract; are we going to rebid it; if we decide to rebid it, what criteria are we going to use. Director Meis responded we should do exactly what Manager Mende just stated. Look at the proposals that are technically qualified, look at those bids, look at the approach, and look at local companies. Approach, cost, and whether they are

local for those proposals that are technically qualified. Chairman Walker asked Director Meis if he was suggesting adding a third criterion for local presence. Director Meis stated that local preference should carry some weight. How much weighting should probably be a Board discussion or something to consider. Director Bowman stated he has mixed emotions about this. I agree with what Director Meis is saying, but I also know from reviewing engineering proposals not all engineering firms are the same—not by a long shot. I am familiar with URS and in this particular case they probably can do a very good job. I don't want to second guess the TAC from the standpoint that we didn't review all of the proposals and unless the Board wants to go ahead and review all of the proposals along with the TAC, you pretty much have to go with their recommendations. I am not real comfortable without knowing the rest of story as far as local engineers, but I also know that engineering firms don't want to buy the project. They would rather be evaluated on their technical expertise, and I think the TAC has done that in this particular case. It sounds like the dollars are close however we didn't look at all of them and that does make me nervous. Chairman Walker asked Director Bowman if he would be in favor of ranking by technical qualifications, but you would like to see the dollar amounts on the rest of the bids. Director Bowman replied, yes, he really would. Chairman Walker asked Director Meis if he agreed and Director Meis expressed his agreement. Chairman Walker asked the same of Director Todd. Director Todd stated she would like to see the dollar amount as well as some weight for local preference, but probably a small weight with the technical being the most important, and the dollar being very important.

Mr. Prall asked how the Board would define the weight for local preference. Chairman Walker stated his feelings would be along the same lines as Director Bowman's comment, but would add that in my experience there are some real benefits to having a local company. When we are dealing with the big boys on the other side of hill, we don't see them as often. When you are dealing with someone local there are some real reduced costs. There is more opportunity for a better working relationship, and I think there are some real advantages to that. We all have in our own municipalities and organizations, and we have or have probably talked about a percentage incentive for local contract awards. In Palisade, we are 3% or 5% depending on the size of the contract. What is the City of Grand Junction? Director Todd responded that they have chosen not to put a percentage on because of the size of the contract can make a great difference when you are talking about six or seven figure project versus something that is much more than that. The City of Grand Junction has always had the recommendation coming forth, but there was always discussion allowed about the next two or three bids behind in Counsel to say, OK, why is this much better? Where was the local consideration? We've not always taken the recommendation coming forth, and we've had discussion, most times yes, but we as the elected officials had the opportunity to have that discussion. Chairman Walker asked Manager Mende to remind the Board if there is and what is the urgency to move forward this contract now. Manager Mende responded that there is no end date that is in jeopardy by not moving forward today. We can postpone this a month without any problem. They have to wait for the leaves to drop before they can do most of the surveying anyway.

Manager Mende offered the following proposal: Reconvene the TAC; determine a breakpoint of technically qualified proposals; open those envelopes; and let the TAC decide on what the best combination of cost and qualifications are and bring that back to you for a revised recommendation for the contract. All things considered if a local firm is the same price and the same qualifications, give a local preference to them. Director Todd indicated that she would like to see more than just one figure come forth. I want to see the figures so we can have that discussion. Manager Mende asked if it would be OK for us to have a recommendation and draft contract in there but have a cover sheet cover with what the process was. Director Todd sometimes I think you are putting the cart before the horse when you have the contract ready to go should we make another decision. I feel we need to have the

discussion of your recommendation, but we need to have the information for the two or three that came in behind it particularly if they are reasonable close. Manager Mende stated that the reason he has the draft contract in there is because this Board only meets once a month. What I can do is bring that recommendation forward without the contract, but ask the Board to give the Board Chairman the authority to sign the contract that way all I have to do is get a hold of the Chairman to move forward with the contract. And if you make a different decision, you can give him the authority to sign that contract. Director Bowman stated he would like to see a more definitive idea of how the TAC is evaluating the proposals. To say it is just technical is great, but exactly what part of the technical. Manager Mende replied that we can provide the Board with a summary of the technical evaluation including the various criteria that were use. We have all of that. Chairman Walker added that would be useful not only for this project but the next time too. Ms. Constan shared that we have an evaluation sheet that includes project approach, project personnel; technical expertise of the team; and previous projects with similar scope of work. Chairman Walker stated that Director Meis has made a motion from Mesa County to move forward with Manager Mende's recommendation and hopefully Manager Mende has heard the needs from the City of Grand Junction. Would Mesa County's motion include more than one option? Director Meis stated, yes; at least to look at to understand the TAC's recommendation with all the technically qualified.

Motion to re-evaluate the proposals for the BSWBMP with criteria set forth by Manager Mende: Director Meis

Seconded: Director Bowman

Roll call vote: Director Bowman, yes; Director Meis, yes; Director Todd, yes; Director Mulder, yes; Chairman Walker, yes.

Motion passed with roll call vote of 5-0

Agenda Item 4 – Resolution 2009-04 Submittal of MS4 Permit Application

Manager Mende stated the meeting with the attorneys that happened on Friday, September 18, 2009, went very well. Basically everything was resolved as far as the discussion bullets that are included in your Board packet. I think at this point and time, all the attorneys are on board as is the TAC. If there is any particular issue or specific topic you would like to discuss, we can discuss that. The application form is ready to go. The documents that need to go with it are the Program Description, the various IGAs, the jurisdictional map and a couple of other minor documents. The intent is to have it submitted by October 1, 2009. What I am looking for from you today is approval to submit, rather than signatures on the IGAs, although if you are comfortable with those IGAs with the resolutions that were determined at the attorneys meeting then we can send in those IGAs with the Authority's signature on them but without the individual City of Grand Junction, Mesa County and Town of Palisade signatures on them. The Program Description gets signed by me as long as you give me that authority to go ahead and sign that for submittal. That is adequate for submittal to the State. I cannot tell you how long the review process will take with the State.

Ms. List asked Manager Mende if there were some changes to the scope and the IGAs based on the meeting Friday that aren't in front of the Board right now. Manager Mende replied, yes, and he was going to go through those in a minute. There is also a couple of other changes that recently happen in the Program Description specifically for the City of Grand Junction and the Town of Palisade based on some text that was incorporated on Friday from Mesa County. So I think the best way to do this is to walk you through the discussion bullets, and give you what the resolution was on each topic.

The first issue: The text on the Program Description that reference internal procedures was left in. The issue was whether that conflicted with the IGA language which is shown under section 2. x. That text

had an additional provision in there that said initiating and conducting activities (this would be a City or County duty depending on which IGA) needed to address and resolve the audit findings made by the Authority under Section B. The decision was made to remove that text from the IGA, and let those particular activities be handled by internal procedures. You are going to hear me repeat that as we go through this.

Chairman Walker stated that from his position here, as you are going through these since there was a lot of work done at both the City of Grand Junction and Mesa County level, if the TAC representative and Board member has comments on them as you go through them, I think it would be very useful to the Board if you would please speak up.

Manager Mende continued with the next item: Some text in the Program Description that reference specific exemptions from permitting that text was removed so that is no longer an issue. By the way on all of these issues, as I said, the attorneys are all on the same page. Your attorney, Mr. Beckner, has reviewed all of this and is comfortable with it, and really that was the key to the meeting was to make sure all of the attorneys are comfortable.

Third issue-Program Description: This really had to do with enforcement. This did take a little bit of work as far as resolving what the enforcement provisions will be. It is different between the City of Grand Junction, Mesa County and the Town of Palisade. Under the County system there is a new provision that provides a process were certain people from the Authority will be made County Code Enforcement officials, and through that process, the County Code Enforcement Procedures and Policies will apply to those actions taken by the 521 Drainage Authority in order to enforce in Mesa County's jurisdiction. On the City side, and it will probably apply to Palisade too although there is a little bit of a question there, there is no need to give the Authority staff that specific designation as a code enforcement official. There does need to be procedures in place at the City to give the 521 Drainage Authority the authority to actually go out there and do enforcement actions, and I believe that has been worked out. Ms. List stated the City of Grand Junction still needs to develop policies. Director Todd added that she spoke with John Shaver today, and he is comfortable with the changes that were made that came out of the meeting. The City will need to follow up with some policies before it can be implemented. Ms. Constan stated the County has some steps to go to implement as well. We will probably need to pass a resolution that uploads the Authority staff to be designated as code enforcement officials, but the concept is good. Chairman Walker asked if that is going to create a political issue. Ms. Constan stated in their last meeting, they talked about the County's code enforcement processes which are basically the State of Colorado Statutes that we operate under identifies that a notice of violation has been issued and that's the document that is utilized to take a code enforcement case to court. It is through the court system that we are actually able to recoup any fines, penalties, costs that sort of thing just because we are organized as a statutory county. Before our code enforcement staff and our County attorney staff will take something to court, they do seek approval from the Board of County Commissioners to make sure they are on board in pursuing that particular code enforcement case at that level. Chairman Walker asked if we are just hoping that that is going to fly with the State. Ms. Constan stated that is the process we have to work with so we'll see what they have to give back to us.

Manager Mende continued that the issue that was laid out in the discussion bullet was a previous version that called for concurrence by the City or County staff before the Authority could move forward with an enforcement action. That language has been deleted and changed. At the County level, it is being assigned the duties of a code enforcement official. At the City side there will be procedures and policies in place that will allow us to act. So that issue has been resolved on both sides. It is a little different in Palisade because Palisade is a statutory town. It is somewhat like the County because the

County is statutory, but it is also little bit like the City of Grand Junction in that it is home rule. Mr. Boddy is checking with Palisade's attorney to get a read on which way it should read. We don't see any problems with getting some final text in there.

Director Bowman asked if the internal procedures and policies have to be developed and sent in along with the application. Manager Mende replied not at this time. I fully expect that Mr. Moore will be asking for those. I did a little bit of a search in the Program Description and IGAs. There are twenty-two different procedures that are needed at the City or County level to be written that I don't think exist yet so we've got some work to do. Ms. Constan stated she was curious as to how Manager Mende came up with twenty-two. It seems like a lot.

Director Bowman asked if the Authority wants to issue a NOV, but the entity that would actually enforce it, whether it be the County or City, disagrees, is there a procedure in the application or the procedures and policies to be written to handle that disagreement. Manager Mende replied that there is nothing built into the IGAs that discuss how we negotiate with CDPHE on this. It is something we are going to have to figure out as we go along. Ms. Constan replied that one thing that is important to point out is in the IGAs the City of Grand Junction and Mesa County are both agreeing to take liability for any findings that CDPHE may have on any action that we would take that could potentially jeopardize the Authority's permit. For example, if CDPHE was in on an audit and picked up on a particular site that the Authority's records indicated a NOV should have been issued for or taken through the entire code enforcement process and it wasn't, if CDPHE came back and had a finding and was successful, the County is accepting that liability. Director Bowman stated he understood that and that his concern was the Authority being in the middle between the possible problem with the State and the code enforcing entity. Manager Mende stated that issue was discussed on Friday with the attorneys and the general consensus was let's wait until it happens. To be honest part of the reason that these discussion bullet are here, was because I had the same concern. In working with Mr. Beckner, I wanted to make sure the Authority wasn't taking on too much liability and getting in that position between the State and the County or the City. The consensus was it may happen, but it doesn't need to be in the IGAs now. We have enough language in the IGAs that we have a process were we can address that in the future and let's wait for it. If it doesn't happen, great. Ms. List stated that we didn't feel like drawing the crosshairs on us at the time of the application. Ms. Constan shared that in all honesty she wasn't sure if it was problem and an issue that we really want to spend a lot of time on in dealing and addressing. Director Bowman replied let's hope it doesn't happen, and let's hope it moves forward. Ms. Constan continued that's kind of what we are going into is with the best intent to do the best job.

Manager Mende stated the next issue is there was a sentence added late to the County IGA that basically stated the Authority shall provided the best service possible and be cooperative, compassionate and helpful to the developers and/or property owners of sites that require oversight. That statement was added into the scope of work. The attorneys agreed that it was probably better as a whereas statement so it was moved into the recitals at the beginning of the document rather in the performance criteria and the scope of work. Chairman Walker asked who came up with that wording. Ms. Constan stated it was Mesa County, and they have tweaked it a bit. The statement now reads: Whereas in to provide the community with the best service possible, the Authority commits to being cooperative, helpful and responsive to the developers and/or property owners of sites that require oversight. We felt it was a good showing of the intent of the Authority to be a resource to the community especially since the County is in the process of uploading its code enforcement capabilities. Director Todd said she didn't see the statement on her copy. Manager Mende replied that it wasn't in there as the Board packet was printed on Friday morning, and the attorneys meeting, where the statement was changed, occurred on Friday afternoon. Director Todd asked why an email with the

changes wasn't sent prior to the Board meeting. Continuing, Director Todd expressed that she has a problem as she is presented with all the Manager's talking points and here are all these changes, and then we come to a meeting that we are at a decision-making point, and this isn't at all what we are suppose to be looking at. Director Mulder indicated the motion stated specify text changes if needed. Director Todd stated she doesn't like coming to a meeting and not having the information before me and being expected to make a decision. Manager Mende responded that he struggled with whether to postpone this and tabling it for another month, and I decided I would rather take the heat with comments such as you just made as opposed as delaying it another month. Chairman Walker added he would take part of the responsibility as he was asked on this and didn't offer a response to Manager Mende. Manager Mende continued that if we get this in by October 1, 2009, we have three months before our selected upload date—the permit effective date. I am anxious about three months for a State review process. I would have like to have the four months, and I didn't believe two months would have been adequate. Objection noted. Ms. List added that our individual permits are still in place even if it doesn't happen in January.

Manager Mende continued that the last three issues, general liability text, the dispute resolution text, and the indemnification language were easily resolved by the attorneys where they are all comfortable with it. I can read the edits to you if you'd like, but it is legaleze. Chairman Walker asked if anyone want the text read, and no one responded. The text was not read.

Director Meis asked if there was any difference between the Mesa County IGA and the City of Grand Junction as he wasn't seeing any flipping through them. Manager Mende indicated that the TAC and he tried their hardest to make them as identical as possible. Really about the only difference is the section on enforcement. The language in there is just slightly different based on Mesa County being statutory and the City of Grand Junction being home rule, and the various provisions/issues with becoming a code enforcement officer. Ms. List reminded that the County's 'compassionate' language is different in their IGA as well. Director Meis responded that he supports that language. I like the fact that we recognize that these individuals while we are in charge of regulating, we are also in charge of helping to provide a service to educate them and help them as much as we can. We are in this together. This is not something we came up with; this is something we are all being force fed.

Director Todd inquired as we move forth, with all the changes, redlines, other things being added, before anything were signed would we have the opportunity for a legal review. Chairman Walker stated he thought that had already taken place. Manger Mende stated he would defer that that Ms. Constan and Ms. List specifically to ask them whether your attorneys have reviewed the revised text that I put together on Monday based on the attorneys meeting last Friday. Ms. Constan responded that the only section of text that the Mesa County attorney may have some issues with is the dispute resolution clause. Their attorney has not reviewed it as they just got on Monday at noon, and it is now Wednesday afternoon. I will have to schedule a specific meeting with them to go through it, but that shouldn't hold up submittal to the State. I don't think the State is going to be too concerned about dispute resolution in the IGA. I think it is more of our attorneys' comfort level in representing the Board of Commissioners. Chairman Walker asked, how does it go to the State, with the current language? Ms. Constant replied, yes. Obviously we will have to submit a final version to the State once the IGAs are signed. I would imagine they would want to keep it as part of the permit file. Chairman Walker asked Ms. Constan if she was comfortable with going ahead with the submittal now prior to an additional review by your attorney. Ms. Constan replied, yes. Director Todd asked Ms. List if she has the same comfort level. Ms. List replied that that was something we needed to talk about. The concern with going to the City Council to get signatures; then it goes to the State, and if we had revisions, we didn't want to come back to Council later on and ask for another signature. We thought it best just to wait to see if it needed to be

revised again per the State recommendations, and then go to Council. Chairman Walker stated that he expects the application package will probably come back from the State with multiple revision requests. Manager Mende stated that in essence we are at 98% of how we all want it to look when it goes to the State. There might be a few tweaks that are not important as far as the State review goes, but I fully expect that the State will review those IGAs and have comments on them as well as on the Program Description. Rather than taking it to the City, County, and Palisade elected officials for approval, then having to come back later with edited versions for re-approval, my decision was to send it in the way that it is. Chairman Walker asked Director Todd if she was comfortable with that and she replied, yes. Director Todd continued that she just had a brief conversation with John Shaver, he has not gone through everything since receiving it Monday, and I just want to be sure that before anything was signed off that he was comfortable. Chairman Walker shared that he believes there is going to be a lot to do after the State feedback, and we need to get started. Manager Mende stated that brings us back to the resolution because that is the way the resolution is written. The resolution basically approves these documents as to 'form and content' for submittal, and does not provide for final approval by this Board or the various entities. Director Mulder moved for approval of Resolution 2009-04 and directed the Manager to submit the 5-2-1 Drainage Authority CDPHE MS4 application documents to the State of Colorado. Chairman Walker seconded the motion and asked if there was any additional feedback from the Board or TAC.

Motion for approval: Director Mulder

Seconded: Chairman Walker

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

Motion passed with roll call vote of 5-0

Chairman Walker shared that even though has taken a great deal of time. Even though it didn't come along as fast as some of us would have liked, I would like to thank the TAC and the Authority staff for staying with this and getting it to the point where we are finally submitting something. Thank you.

Agenda Item 5 – Orchard Mesa PDM Grant Application

Manager Mende stated that we are at the goal line of submitting the PDM grant application to the State that would be through CWBC and FEMA for this large grant. All the final paperwork is being put together with our consultants. The issue of funding is an issue that needs to be addressed by this Board as well as the local jurisdictions. The PDM grant can be up to \$3 million dollars and anything over has to be provided by the local entities. As part of a PDM grant, you have to submit a letter of intent to commit funds that would come from the Authority. The Chairman would need to sign that letter as he would be the applicant. Although that is somewhat in question, because in order to be an applicant you need to be a signatory or approver of the local county-wide Hazard Mitigation Plan, and this Board did not sign or approve the plan originally. However, we will be bringing that to you for the current updates that are going on. I haven't gotten a clear answer from my contacts at the State on whether we can be the true applicant. If not, we would be the sub-applicant underneath the County application. The key issue is funding, because there is \$1.7 million out there that if we are successful with the grant application we will need to come up with. You've got to write a letter of intent that you are going to commit to funding. For you to write that letter of commitment, it relies on the City of Grand Junction and Mesa County coming up with that money, and putting it into the Authority's budget. Based on the budget discussion that we had earlier and knowing that funds are tight all over, the issue is that is the money isn't going to be available in 2010.

Director Todd stated that the City of Grand Junction does not have the money. Ms. Constan stated that there has been some emailing amongst the technical staff of the City of Grand Junction and Mesa County in regards to some outside the box ways we could still come up with the money. Where part of the dollars identified in the grant are for the actual design of the project, we would be constructing what I believe would be a detention pond. The City of Grand Junction's engineering staff is looking into whether or not they would have the resources to do the design work, and their in-kind services could be considered matching funds for the grant. That could cover a large portion of Grand Junction's contribution if this was successful. Chairman Walker asked if that was at a 50/50 split. Ms. Constan replied that she was looking at splitting it three ways looking at the large fund balance the Authority has going into 2010, but I was not privy to the budget conversation so I am not sure where that is headed. There are some details left to be worked out, and there are some conversations that are yet to be had on how we are all going to come together. Mr. Prall added another thing that could make it a little more palatable would be splitting it up amongst various years. Obviously if we are awarded this in June 2010 there is no way we will be able to do final design, and get the project constructed by the end of 2010. So realistically we are looking at a phased approach, and looking at 2011 construction. The match from the City and County wouldn't all be needed in 2010. However Director Todd is correct, the City of Grand Junction is very concerned with its revenues right now, and looking at the big scheme of things, and what capital improvements we are doing without, to invest in this particular project we would be hard pressed to put that one above some of the other capital projects even though we are leveraging grant dollars which is one of the other priorities we have is to leverage those wherever we can. We also need to make sure we are getting half a million dollars of benefit there. This basin study and the proposed PDM grant, at least from my understanding, does not move everybody out of the 100-year floodplain. There are a significant portion of residences downstream of where the detention pond is proposed that instead of being under three feet of water might be under a foot a half of water, but they are still in the floodplain. I would like to see a little more comprehensive look at how we might be able to fund the entire basin improvements whether it is through a second PDM or something like that. Chairman Walker asked Mr. Prall if meant prior to moving forward with this application. Mr. Prall replied he thinks we could probably go ahead and submit. The risk as Manager Mende states here is yeah we are interested in a PDM grant, and we get to June, 2010, and say, sorry we weren't able to pull our funding together even though we were just awarded the PDM grant, we are now backing away from the table. Sorry FEMA; sorry feds. So there is some risk there. Director Todd asked what that would do to you for future grant applications. Mr. Prall responded, exactly. Manager Mende added that he had the same conversation with our grant coordinator at the State. She said, it doesn't look good, but when they review these PDM grant applications at a national level, the review team changes every year. But still you are being submitted through the State process, and those folks have a long memory. Chairman Walker continued this would be \$800K or \$900K under your scenario each year for the next two years out of the City of Grand Junction's and Mesa County's budgets. Even with 30% of this being in-kind services, is this something you can envision there would be any possibility this would hold. Mr. Prall stated that Director Todd hasn't had all the budget discussions yet. They haven't been held with Counsel yet. They don't even go over capital until October 19. That's when all the capital projects will be put before Counsel, and we'll hear what their priorities are. We are going to fund 29 Road and I-70B with the County, and there isn't a whole lot left after that. Manager Mende stated the recommendation is to move forward with the grant application. We have already spent 99% of the money towards that end; we might as well go ahead and submit the application. The Board expressed their consensus to have the Manager submit the application.

Agenda Item 6 – Manager's Report

Manager Mende stated that first thing he wanted to address was a call he received from Jerry Otero, and he is going to meet him on Monday. They got our letter. Mr. Otero conveyed that the Authority laid

out five priorities, and he would like us to cut it down to one or two. In the Authority's letter, we said we have this program, and it is an unfunded federal mandate. We are asking for support from our elected officials. We laid out five specific things:

- ~ Grant or matching funds to partially offset the local financial burden to comply with NPDES Phase II requirements
- ~ Opposition to additional proposed rule making for the Phase II program such as the November, 2008, proposed effluent guidelines for discharges from the development and construction industry
- ~ Cost sharing or matching funds for the preparation of basin master plans when the basins include upstream federal properties
- ~ Sponsorship and/or support for land use agreements with federal agencies such as BLM to allow use of federal lands for construction of flood control structures
- ~ Grants, cost sharing, or matching funds for the construction of identified flood control structures where the federal property is shown to contribute to the flood volume.

We've hit on financial assistance pretty heavily, and the feds don't have any more money than we do. I am looking for some direction for when I meet with Mr. Otero. Director Meis stated unfunded mandate, and one size doesn't fit all. Those are the two things I always say when talking about stormwater. Chairman Walker agreed that 'unfunded' is very clear. Manager Mende asked as far as potential actions that our elected could do for us, what should we be requesting? Director Meis stated that if we could put that five acre piece in our control that would certainly help. Manager Mende responded so that would be expanding the Qualifying Local Program provisions at the federal level to allow for larger acreages. Director Meis added that it should also allow for performance standards with regards to stormwater to account for again the 'one size fits all' approach nationwide. We have circumstances here where Mother Nature is pushing dirt into the water, and will whether we were here or not. We aren't necessarily going to stop that, but we need to minimize our impact. That's the part where it tweaks me a little bit when we are trying to prevent Mother Nature from happening. Chairman Walker added that it would be happening if the population wasn't here. Director Meis agreed as we are going to be building detention basins out on the BLM to stop sediment from going to the river. Chairman Walker continued why not just ask for funding. We want to do the right thing. We'd love to build some of these facilities not only to aide with the permitted items, but in general improves to water quality. Director Todd shared that as she told us before when she was in Washington, DC, visiting with the agencies in April, you get lip services, but there is not funding that is going to come. Sure they would like to help but it goes nowhere but the room even with follow up conversations. Chairman Walker added the feds spent \$9 million on a fish ladder that no one even knows if it is even going to function, and we can't spend a million dollars to save the quality of the Colorado River for a particular stretch of the river. It just makes no sense.

Manager Mende asked if he should ask about anything having to do with the potential funding for various program elements under stimulus funding or something like that. Director Todd responded that you are not going to go anywhere under the stimulus dollars. You need to ask for direct funding through the departments. You start talking stimulus funding; you start talking politics on the Hill; you get lost and pushed aside, and you have absolutely no real conversation. You have to ask directly from the departments in order to get something done. Manager Mende asked how does that work. Would the EPA have some set aside for some pocket of money that directed sort of like the revolving loan program they have for sewage treatment plants. Director Todd stated they have lots of opportunities. You just have to keep pushing. One, you work on the local offices with the local representatives. It is their job to help you find those avenues of resources. If you don't like the answer you get at first, you go back, and let them know that and ask again until they know you by your first name when you just keep coming in

the door. That is the only way you start getting some response. You have to beat it again, again and again. Manager Mende stated that might be one way to broach the topic is say we would like your support at the local office level to help us identify what these sources of money may be. Director Todd stated that she is more direct. She goes in and says this is what I need. You have the resources in DC. You tell me where I can go, whose door I need to knock on, or you knock on it and have them call. You don't go in and say mother may I as it will go nowhere. They are there for a service to us. You have to ask the right questions to give them some direction. They have the resources available that you could spend weeks trying to find the right department or the right phone number. That is what they are hired to do.

Chairman Walker stated it is nice they are giving us an opportunity to respond directly back, but come on, where's it really going to go. Manager Mende stated he was looking at it as he has invited me, and I'm going to attend. I'm going to try to give him an idea of the top two that we would like to see. Director Meis added that both the representatives from Senators Bennet's and Udall's offices are new. They are bright eyed and bushy tailed so we need to take them up on their ambition, motivation and enthusiasm before they get jaded with the federal bureaucracy. So honestly take advantage of it. Director Todd shared you just need to ask the questions. We need some help in this area. Can you find who it is I need to put the call or letter to in DC that I can have a response from, and not where I just get lost in the pile. You have to get their direct contact. You can't mail anything to DC and expect it to get there within four months. Manager Mende shared that he liked the idea of one or the other Senators sponsoring some legislation at the federal level that allows that Qualifying Local Program to increase beyond five acres. I think that would have national implications and that might be something one or other would be willing to sponsor. The money end of things is another concrete idea for them. Chairman Walker added just remind them that every dollar we are sitting here spending right now is money that is desperately need other areas of our budgets. Director Todd added that they need to recognize what I run into with any water management issues on the national level is we hear west of the Continental Divide; we have to deal with the federal land. Back east, private corporations and local situations is what people have to deal. They don't have worry about the federal agencies so they have someone to come to the table with, and try to solve some issues versus what we have and try to go through bureaucracy. Ms. List asked if the Authority received a letter back. Manager Mende replied, no; it was a phone call.

Manager Mende continued with the Manager's Report. The billboard is at 24 Road and Highway 6&50 west of the mall. We are working on the PSAs with a local production company. We've got two PSAs that we will out there shortly, and hope to have them on the air early October. Chairman Walker asked to talk about the PSAs. We have the obligation for public education. We haven't talked about this recently in terms of do we really need to spend the money that we've got allocated in the budget to do these kinds of things. Director Meis stated the Budget Committee had that discussion prior to this meeting. Manager Mende stated the general consensus of the Budget Committee was to cut that cost back. Chairman Walker asked what about this year? Are we obligated to spend that money? What would happen if we don't do these PSAs? Manager Mende replied the Program Descriptions at the City and County specifically mention PSAs. Ms. Constan stated we do not have to make our own PSAs. We just have to air PSAs that address stormwater quality on the local TV stations. Chairman Walker asked what would happen if we don't air these PSAs. Ms. Constan stated we would be out of compliance with permits with the State that we can get fined \$25,000 a day if they decide to make an issue of it. Airing the PSAs cost around \$5,000 per year. Ms. McDonald stated it was \$10,000 per year. There are two separate costs. The airing is \$10,000. The production of the two PSAs is going to be less than \$1,600. Director Todd asked if the air cost was for an entire year. Ms. McDonald replied, no. This is for a three month period. Last year we went to the three major networks as we did the year before. We have the choice of frequency versus length and where you are in this market. The television stations match our

dollars as we are non-profit to leverage our funds. Chairman Walker stated he doesn't want to pinching pennies to an extreme level. I just think we need to look at everything, and if there is a way to accomplish the public education piece in less expensive but still efficient fashion. Director Meis stated in the budget meeting we discussed next year not this year. Manager Mende stated the majority of the cost is in the airtime. From a TAC standpoint, one of the things the State looks at is effectiveness and one of the things we need to look at is the effectiveness of our public education. Director Mulder had a good comment in our budget meeting at least for next year squirt guns and booth rental are not effective public education. I think PSAs are, and one of the reasons we want to go with something with more of a local flavor and local production is because if you are seeing a picture of Georgia as opposed to seeing Mt. Garfield you are paying attention more. Ms. McDonald added that will be changing with the new program description as we will not be confined to just television. We put in there a multi-media approach so we can look at alternatives when the new program description becomes effective; however we are still confined to the old program description for this year. Director Meis asked how we can modify our current PSAs in order to still be in compliance. What is the bare bones minimum we can still get away with this year? Can we modify it this year? Ms. McDonald responded it can still be modified as long as the program description allows for it. I'll be happy to look at it and send that out.

Manager Mende continued his Manager's Report:

Training: The numbers for training have improved. Registration for the new Post Construction BMP class is at 27 so far. We have 30 registered for the Erosion Control Supervisor class.

Hotline: We received our first hotline call from the Fruita area.

Inspection Upload: Jesse has been on vacation so there have been no new uploads.

Stormwater Management Plan Reviews: 34 to date

Permits: The Authority has issued seven permits in the Grand Junction jurisdiction. None in the other jurisdictions, and I have three more with approved SWMP sitting on my desk, but they haven't picked up their permits yet.

Manager Mende states he still doesn't know the total number of uploads for active permits from Grand Junction. Director Meis asked if these uploads come along with the fees that have been collected by Grand Junction. Ms. List responded that Grand Junction hasn't collected any fees. Director Meis stated the business model the Authority was founded on was inspections and review costs would be funded by fees. Obviously this is not happening with all these uploads that have no fees tied to them. Basically they are eating off of reserves/contributions/carryover. Mesa County's contribution to this, as we don't have a lot of permits, is going towards basin studies and other shared costs. So with the City of Grand Junction kicking in all this work with no fees attached, it becomes a little less equitable. We've got to find a solution to that because obviously it is not in the County's best interest to be subsidizing all the City's stormwater site plan reviews and inspections. That was the business model we all sat around and created together. I don't know how we fix this. Chairman Walker stated that the alternative from his understand is that we have an inspector that is not fully utilized, and if she has the time to go out and do these inspections. Director Meis stated he is all for it, and he was all for it when we uploaded it. I guess I should have asked the question at the time of the upload: Are there fees that come with the upload? Because that was the business model we supported here, and I didn't ask that question so I take responsibility for not asking that question at the time. But I am asking that question now.

Manager Mende stated for the record that the Inspector is not underutilized. Chairman Walker responded that he was not suggesting that, but if the Authority had not uploaded the permits from Grand Junction, she would probably be underutilized. Manger Mende agreed. Chairman Walker asked,

what is the hurdle in front of the organization from actually going ahead and charging fees for the activities Inspector is performing for the City of Grand Junction? These are the preexisting permits. Any new permits we issue, we are charging fees. Director Meis stated the issue is not resolved, but he will be bringing it up at budget discussion.

CASFM Conference: Manager Mende stated it was a very good conference, it always is. There are some trends out there that I need to stay on top of which kind of came home to me at the conference as well as listening in on the Colorado Stormwater Council meeting today. Dave Acres who is the Water Quality Control Division Director was the speaker at the CSC today. It pretty much supported what is in my report. There continues to be a lot greater emphasis on incorporating low impact development design standards. In fact, the state of Washington is currently mandating those as part of developments. Those increase the costs of developments. There is no move a foot right now in Colorado to do that. Although these low impact criteria and standards are being incorporated into the Urban Drainage and Flood Control District Volume 3 update which is recognized throughout the State as well as nationally. Regulatory oversight is increasing. Dave Acres hit on that pretty hard today. The EPA is in the field in Denver right now. They are doing audits of the State's program, and they are taking the same strategy as the State is taking with the local entities. The EPA is looking mostly at Phase I large construction sites. DIA is an example. In order to evaluate the efficiency or effectiveness of the State program, and how well they are overseeing those Phase I entities. The State, in turn, is actually doing the same thing with the local MS4s. They are actually pulling staff out of what used to be doing construction inspections, and they are assigning those people to do MS4 audits. They are looking at the local programs, and doing audits on the programs. To do that, they are looking at larger construction sites within different MS4s as an indicator as to whether those programs are effective. I did hear from somebody at the CASFM conference that the numeric effluent limits on construction projects (which are one of the issues we raised in the letter to our elected) will go final in December. Apparently that is a federal court order so that is going to happen. The implementation of that is going to take some time probably three to five years, but all indications are that the Federal Register will publish that as a final rule in December. There is a continued movement towards regional stormwater management. By the end of the year, there will probably be two more authorities. Both of which will be asking their jurisdictions for stormwater utility fees. One is Cottonwood Creek south of Colorado Springs, and I've forgotten the other. What is interesting is if these two other go into place, there will be five authorities in Colorado. Of those five authorities, three are specific to drainage basins, and they are set up solely for the purpose of taking care of the flooding problems within a specific basin. The other two which would be SEMSWA and us, are more global and handle the NPDES stuff as well as basin mastering planning and capital improvements. The model is being used in several different ways.

Lastly, to end on some good news, I spoke with Kevin Houck, who is our CWCB representative, and he confirmed that we are going to be able to get around \$78K for the Big Salt Wash Study. We won't see that until 2010 so that could help a little bit as far as budget next year. He is also supportive of a 50/50 grant for the Bosley Wash re-design which would allow us to go ahead and get a final design on the shelf for the Bosley Wash Detention Basin which has been a project that we have all been interested in for quite some time. We will need to put together an application for that, but it looks like that is a go. The reason we had not heard about that, as I had put the request was submitted in early August, was he didn't know up until early last week if they had any money left. There have been some decisions made at the State level that didn't totally raid the CWCB budget. Director Todd stated that if it is not being funded right now, I wouldn't count on it. Ms. McDonald asked if the \$78K should be considered in next year budget. Director Todd said, no. The CWCB is going to be in worse straights next year that what the legislature and Governor put them in this year. Ms. McDonald asked if she had a formal commitment

letter from the State does that count? Director Todd replied, no. They are stopping projects in mid-construction.

Ms. Constan asked if the Authority would be able to attend the statewide MS4 meeting in October. Basically there have been some quarterly MS4 meetings going on statewide basis ever since we started talking MS4s permits with the State, but they have fallen by the wayside in the last year, and TAC feels it's definitely good to have Authority representation at those meetings. The downside is they are typically on the same days as your Board meetings so Eric or Janice being there might be tough, but having Jesse go quarterly over to Denver to keep in touch and keep pace with what is going on as a statewide basis. Director Meis stated that considering the travel budget was just cut, I doubt that is going to happen. I don't know what to tell you. We have to make some tough budgetary decisions so I think the TAC needs to give us some idea what is appropriate with regard to travel. What are things that we should be at? What are things that we can participate in electronically? Honestly, I don't know what they should be attending. I am relying on the TAC and the Authority Staff to tell us what we absolutely should be at and what we can avoid not being at. We've got to be frugal with our travel dollars. Ms. McDonald asked if they had electronic meeting capabilities. Ms. Constan indicated in the past Authority staff had said it was hard to hear. Manager Mende said today's meeting was much better as they have gone to a new system. They are using 'Go To Meeting', and have upgraded their microphone so it was greatly improved from the past. Ms. Constan said that you are making the effort to attend and listen in is good, because for a while it didn't sound like there was any connection at all with the statewide groups. Manager Mende indicated that in the past that the technology was so poor that it was a waste of time to try and listen in via the phone. Chairman Walker asked what was decided in this discussion. Ms. Constan responded that the decision on travel was dependent upon the 2010 travel budget as to whether or not Authority staff attends in person or electronically. Director Meis stated that he wanted both the TAC and the Manager to really look at what associations we need to be associated with. I do want to have some frugality with our travel budget as we are exercising at the County. We need to know that as we go into the budget discussions for the Authority. What do we have to be at? Ms. List stated the statewide MS4 group meetings are very good, and it also promotes awareness of the Grand Valley's stormwater issues. I think if we could have the improved audio we could participate electronically. I think involvement is important. Chairman Walker asked that we figure out the cost of the travel for this participation, and have it as a line item.

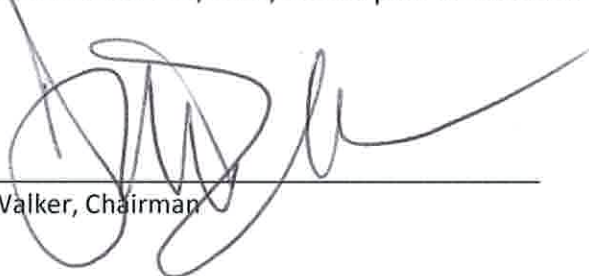
Director Mulder asked Manager Mende about the discussion he mentioned at CASFM around the five acres. Did you have additional information on that? Mr. Prall responded it was regarding the numerical standards are going to be applied to developments and subdivisions greater than five acres in size. That is a huge implication. Right now the Authority's Inspector goes out and inspects all the BMPs in place. Manager Mende added that this is different that the five acre regulatory standard you have a permit on. This is basically saying that anything over five acres will have a new standard where they've a turbidity limit on their discharge which means potential monitoring etc. It has a ways to go, but it is a federal court order. Ms. List stated we shouldn't get too excited about it yet. Mr. Prall stated still looking down the line and the 1972 Clean Water Act, the noose keeps getting tighter and tighter. We did wastewater and now stormwater, and it keeps getting tighter and tighter. Director Todd added that she know that the EPA is coming in wanting to help write all the regulations for in-fill design standards getting into our buildings density and everything else.

End of Manager's Report

Chairman Walker asked the Board if they could meet at 2:00 p.m. on October 28, 2009, for a work session to finalize the performance criteria for the Authority's Manager and a discussion on general direction. The Board agreed.

Ms. McDonald asked the Board if they wanted to move the November and December, 2009, meeting dates due to the holidays. The Board members suggested combining the two meetings into one on December 9, 2009. Manager Mende stated that provided a little bit of a problem as we have to have a public meeting on the budget. You can do that on the same time that you pass it, but generally that is not the way it is done. We can do the public budget meeting at the October 28, 2009, Board Meeting. All agreed to have the public budget hearing at the October 28, 2009, meeting.

Chairman Walker adjourned the meeting at 4:58 p.m. The next 521 Drainage Authority Board Meeting will be held on October 28, 2009, at 3:00 p.m. at a location to be determined.

A handwritten signature in black ink, appearing to read 'D. Walker', is written over a horizontal line. The signature is stylized and cursive.

David R. Walker, Chairman