

**GRAND JUNCTION CITY COUNCIL  
WORKSHOP**

**MONDAY, SEPTEMBER 17, 2012, 11:00 A.M.  
CITY HALL AUDITORIUM  
250 N. 5<sup>TH</sup> STREET**

*To become the most livable community west of the Rockies by 2025*

- 1. McClellan Flooding Issue (26 ½ Road):** Mr. Glen McClelland will address the City Council on a flooding issue that occurred at his residence at 838 26 ½ Road. [Attach W-1](#)

**Noon**

- 2. Luncheon with Visitors and Convention Bureau Board of Directors**

## Attach W-1

***Originals hand delivered on August 6, 2012 and also delivered by email***

Mr. Rich Englehart  
Grand Junction City Manager

Mr. John Shaver  
Grand Junction City Attorney

August 6, 2012

Dear John and Rich,

I have considered your proposal made to me on Friday and decided to turn it down. I was disappointed with your response, but I also understand and appreciate your position. As I said when we first met and I presented my position, I am a believer in the process and I know this is how the process must work. I appreciate your time and consideration.

During your call made to me on August 3, 2012 to provide me your response to my presentation, I believe you presented the following facts to me:

- You compared this incident, and the resulting damage to my home, to a backed up sewer pipe which clogged due to tree roots causing a sewer backup resulting in damage to a home.
- You stated clearly, that using the clogged sewer as historical support for your approach to this situation, any damage sustained to landscaping was clearly excluded from any settlement consideration.
- You confirmed that your Risk Management Manager stated that you had no exposure for this incident
- You acknowledged the fact that you do not have any liability for my damages, however, in good faith, recognizing the extent of the damage, and based on prior history of dealing with backed up sewer pipes, the City could potentially pay me \$5,000 to help offset my damages.

When I made my case to you and your staff, my intent was to provide you facts as I knew them, which I believe resulted in a material loss to me. Facts which I believe clearly showed the City could have prevented this damage had they done their job. I have to believe the intent of your response was to address my claim against the City in the manner which you believe best represented the intent of the City Government, as well as was in the best interest of the City. As I stated, your response was disappointing to me, and your proposal unacceptable to me.

When I met with you, I tried to convey my intent was, and continues to be, to pursue a fair settlement for the damages I sustained which I believe was caused by actions or lack of actions by the City. I was disappointed in your response – not because of the \$5,000 proposed payment, but rather that you chose not to even mention or address in any way the facts I presented. Instead, you chose to equate the flooding of my property and home with a root-clogged sewer pipe. I am sorry, but I do not believe my flooding was caused by a clogged up sewer pipe. I believe my flooding was caused by a clogged up bridge which the City knew about well in advance of the flooding events – and I do not agree with you that the facts surrounding this issue even come close to facts which may support a root-clogged sewer pipe.

I may not have made this point clear to you, but my intent was not to enter into a negotiation with you where I started at \$100K plus and then you come back with \$5,000 and we eventually agree on a figure somewhere between. The damages I stated are real and I can support every penny. The response I was hoping for from you could have been as simple as stating your assessment of the facts as either correct, incorrect or irrelevant to the issue, and then your proposed settlement –which could easily have been zero. I was looking for a response to my presentation. I am hopeful I can get this from the Council.

For my presentation to the Council I am going to put together an information package to provide to the members of the City Council in advance of my presentation. Based on our conversation, I must assume that your response to the facts I presented, is that they can be equated to a root-clogged sewage pipe and although you have no liability for this issue, you are willing to settle with me for \$5,000. I can assure you, I am going to take exception with your response in my presentation to the Council.

I would like to review the facts as I have them so you have the chance to provide me any information you may have to counter or adjust them prior to my presentation to the Council. The facts I presented to you can be summarized as follows:

- By State law I cannot pursue legal action against the City, however this does not mean the City does not have responsibility for their actions – or in this case their lack of action.
- The steps available to me to pursue my claim against the City are first to make my case to the City Manager and his staff – which I did at a meeting with them on July 20, 2012 – to which you provided a phone call response to on Friday, August 3, 2012.
- In the event I am unable to reach an agreement with the City Manager and his staff, the next step available to me is to present my case to the City Council.

**The facts relative to the bridge over Leech Creek on 26 ½ Road just north of the intersection of 26 ½ Road and Catalina on the northwest corner of the Paradise Hills subdivision are:**

- The flood plain designation study, (Ranchmen's Ditch, Leech Creek and North Leech Creek Physical Map Revision dated February of 2010), was done to set the current flood plain. In that study, the bridge opening square footage is set at 170 square foot for purposes of the modeling done to establish the flood plain. Yet at the time the City provided this figure, the City possessed knowledge, as outlined below, that the capacity of this bridge was considerably less than this figure.
- In the bridge inspection report done in October of 2010, the actual bridge opening was reported to be 81 square feet, which is less than half the figure used to establish the flood plain as set forth in the study. In addition, this report showed historical inspection reports of capacities well under the 170 feet provided for the flood plain report. Had the bridge been cleaned out to conform to the specifications used in setting the flood plain, it is very likely that water from a less than 100 year flood event would not have entered into our house and much of our landscaping would have been spared..
- In the fall of 2011 the City cleaned the approaches to, and the channel under, the bridge.
- By my measurements and calculations done on July 16, 2012, the bridge opening was 138 square feet.

**The facts relative to my property and home are:**

- My property and home flooded on July 11, 2011 and again on August 14, 2011.
- The damage to my property and home was \$106,532.00

***My contention is the damage to my property and home was materially caused by the City's irresponsibility in maintaining the bridge.*** The City possessed the knowledge that the bridge capacity was materially compromised due to the October, 2010 report outlining the situation and the need for maintenance. The City did not take action to correct this situation, nor did they notify me of this potentially dangerous situation relative to my property which would have at least provided me the opportunity to address this issue myself and have the chance to invest the \$15,000, or so, required to clean out the bridge myself and save me the more than \$100K in damages resulting from the bridge's compromised condition.

The above facts and my contention were contained the presentation I made to you at your offices on Friday July 20, 2012.

My presentation to the Council boils down to some very simple questions: is the City responsible for doing their job? If so - what was the City's responsibility to act on the knowledge that a bridge on Leech Creek was less than 50% of the capacity which they used to define the flood plain less than 1 year prior to the report outlining this situation to them? There are other important questions which I will need to sort out prior to my presentation to the Council, such as how this error of overstating this bridge capacity by nearly double its actual capacity, as reflected in reports which the City had in its possession at the time this capacity figure was provided by them, impacts the flood plain report – and why was this materially incorrect figure used instead of the one reflected on the most recent bridge inspection report available to them at the time? It has also come to my attention that the City may have done cleaning of Leech Creek above my property prior to the flood, which if so, certainly would have contributed to my flooding issues. I will pursue finding these answers, but If you have this information and can provide me answers to these questions I would appreciate it, as it will help me assure my presentation to the Council is as accurate as possible.

As I also indicated to you when we met at your office, my intent is not to blindside you or your staff with my presentation to the Council In the event I have any material errors in the facts as I presented them, would you provide me information pointing out these errors, so hopefully by time I make the presentation to the Council, we have facts on which we both agree. Certainly, I expect that we likely will have different interpretations of the implications of these facts, but we should be able to agree on the facts. I have provided you my clear response to what you presented to me, and I believe it is fair to ask you to do the same for the facts I presented to you.

Sincerely,

Glenn McClelland  
838 26 ½ Road  
Grand Junction, CO 81506  
970-245-9410



## McClelland Flood Presentation

July 15, 2012

Address: 838 26 ½ Road  
Owners: Glenn & Jessica McClelland  
Flood Dates: July 11, 2011 and August 14, 2011

**Introduction:** On the evening of July 11, 2011 there was an extended rain storm resulting in substantial amounts of rain falling in the north areas of Grand Junction extending to desert areas north of the canal bordering the north side of Grand Junction around the 26 ½ Road area. This storm resulted in substantial flooding on our property which is located at the intersection of Catalina and 26 ½ Roads. Our house sits on the north east side of this intersection and our property is bounded on the north by the Leech Creek drainage, on the west by 26 ½ Road, on the south by Catalina, and we have a neighbor to the east. While this storm was undoubtedly a strong storm, our investigations into the situation which caused the flooding of our property indicate the flooding was caused by the status of the bridge spanning Leech Creek on 26 ½ Road, just north of the Catalina and 26 ½ Road drainage, (**Bridge**).

The July 11<sup>th</sup> storm flooded our property and our home. The water flooded the lower floor of our home to a depth of approximately 3 to 6 inches, and flooded all of our property located on the lower side of our lot. The flood damage to the lower floor of our home required substantial cleaning efforts to remove the water and mud deposited by the flood, and a complete renovation of the lower floor, including replacing the lower sections of drywall and repainting. The renovation of our home started immediately following the July 11 flood and was completed approximately 3 weeks later. We did not start work on renovating the landscaping pending some resolution of the situation which caused the flood, which we believed was the clogged condition of the Bridge.

On August 14, there was a second flood of our property, however, this flood did not flood our home, as the flood water level peaked within inches of the bottom level floor of our home. However, this flood further damaged our landscaping and deposited more silt and mud on our property outside of our home. After this flood, we had a berm built around our house to protect it from further flooding until we were convinced the conditions causing the floods had been addressed. On August 22<sup>nd</sup>, a contractor of the City arrived and worked for two days removing trees and cleaning out the channel of Leech Creek. Later in the fall the City crews arrived and cleaned out the passage way under Bridge and the channels leading to that passage way under the Bridge.

McClelland Presentation to City July 20, 2012

Our Claim to the City:

At the outset, I will acknowledge that I have been told by legal counsel that I am unable to bring legal action against the City to try to collect this claim through the legal system. However, this does not remove the City from responsibility for this issue. Rather, this issue now must be decided by the management structure established to manage the affairs of the City. I am presenting this to the City Manager in hopes of reaching a resolution fair and acceptable to the City and myself. If this is not possible for some reason, my next step will be to present my case to the City Council. I believe this is a good method for addressing this issue, and I am very willing to work within this system to present my case, and then live with the outcome, once my efforts within the system are exhausted. I thank you in advance for your attention to this matter.

Our Claim to the City is based on the facts surrounding the bridge opening just north of the intersection at 26 ½ Road and Catalina Drive, (Bridge). The flood plain designation study, (Ranchmen's Ditch, Leech Creek and North Leech Creek Physical Map Revision dated February of 2010), was done to set the current flood plain. In that study, the bridge opening square footage is set at 170 square foot for purposes of the modeling done to establish the flood plain. In the bridge inspection report done in October of 2010, the actual bridge opening was reported to be 81 square feet, which is less than half the figure used to establish the flood plain as set forth in the study. Had the bridge been cleaned out to conform to the specifications used in setting the flood plain, it is very likely that water from a less than 100 year flood event would not have entered into our house and much of our landscaping would have been spared. See the following Attachment A for Don Pettygrow's Report for details.

The City has cleaned the passage way under the Bridge and expressed their intentions to continue to maintain this passage way in the future. Per measurements I took on July 16, 2012, the capacity of the bridge opening today was approximately 138 square feet, (my calculations using 28 foot span and taking 4 measurements from bottom of the bridge deck to the mud floor of the stream, which averaged 4 ft. 11 inches). This represents nearly 70% more passage way capacity today than in October, 2010, which was nearly 9 months prior to the first flooding of my property. Yet, this freshly cleaned capacity is substantially less than the 170 square feet of opening used in the flood plain calculation.

On July 15, 2012 the area experienced a significant rainstorm, which, according to conversations with Bret Guillory at the City, dropped approximately ½ inch of rain in a fairly short period of time and would constitute a significant rain event. Although it is difficult to gauge the relative size of this storm compared to the storms which flooded our property in July and August of 2011, there is reason to believe it was a significant event. As opposed to the prior flood events, I was able to take pictures while the storm was occurring, and recorded the rise of the water relative to the established banks of the creek as well as the flow levels relative to the top of the bridge. As opposed to the flood events of 2011, this high water event in Leech Creek, appears to be mostly caused from high water flows down Muskrat Creek.

This information was reported to Bret in an email dated July 16, 2012, which I have attached as an exhibit to this report. With this added opening size to accommodate the flood waters down Leech Creek, the creek reached the tops of its natural banks, yet even at the crest of the flood waters in Leech Creek, the bridge opening maintained what appeared to me to be 10 to 12 inches of freeboard between the bottom deck of the bridge and the surface of the flood waters. This seems to further support my case that if this bridge had been cleaned out, the flooding I experienced last year would not have been near to the magnitude that which I experienced.

**Claim Amount Detail:**

Renovation of the house:

Paul Davis Restoration	\$15,680.43
Sunshine Painting	\$ 2,420.00
Good Shepard Cleaning	\$ 975.00
Serani Concrete	\$ 500.00
Miscellaneous Supplies	\$ 511.48
<b>Total House Renovation</b>	<b>\$20,552.65</b>

Renovation of the landscaping:

Painted Desert Landscaping \$85,980.17 (1)

**Total Claim for Renovation: \$106,532.82**

**Note 1: This amount does not include the work completed west of the tennis court just prior to the first flood, nor does it include any costs for the wooden walkway, horseshoe pits, or work on the tennis court renovation.**

**Current Situation:**

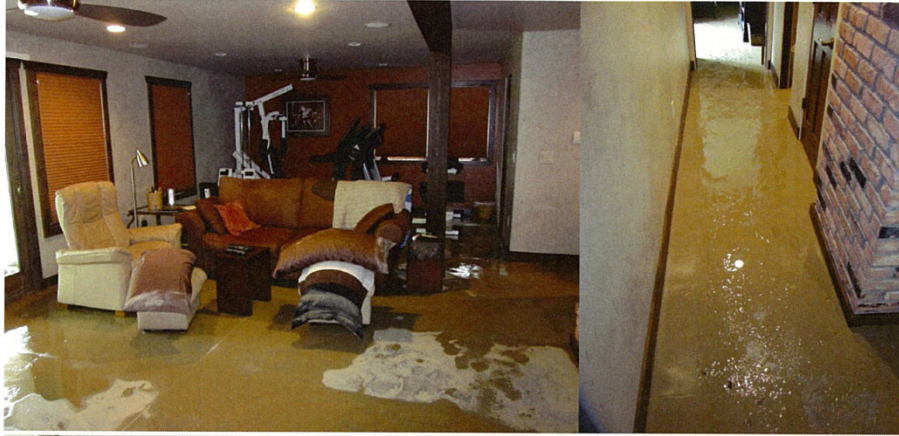
As of the date of this report we have completed a full renovation of our home and our landscaping to address all damages incurred by the floods. In addition, it is our understanding from the City, that they will be constructing some substantial detention ponds north of the canal in the area north of our property which will help eliminate the potential for future high water conditions in and around the Leech Creek area. The combination of a clean and well maintained passage way under the Bridge, and the retaining ponds upstream from the Leech Creek drainage area, should adequately address the potential for future flooding of our property, from Leech Creek. However, per my conversation with Bret on July 16, 2012, it does not appear there is anything we can do in the near future to alleviate potential flooding from Muskrat Creek. This situation was likely made worse by the cleaning out of the drainage pipes under the Highline Canal allowing Muskrat Creek to drain more efficiently under the canal where before the canal was acting as a sort of retaining pond. This is likely the reason why, in conjunction with the deterioration of the capacity under the Bridge, I have seen 3 significant events in the last 12 months, where I had experienced 1 event in the past 20 years, and that did not result in material flooding of my home. Yet even with the cleaned out pipes under the canal, had the bridge been maintained properly, there is adequate reason to believe my home would not have flooded.



## Exhibit A Flood Damage Photos – Before and After

As you can see from the accompanying exhibits to this report showing the flood damage, we had no choice but to invest the money to renovate our property from the results of the flood. We restored the lower floor of our house to exactly the same condition it was prior to the flood. Our landscaping we restored to a condition that which we believe could better accommodate any future high water on our property, while still maintaining a reasonably attractive landscape.

First Floor of our Home – After Flood:



First Floor of our Home – After Renovation:



East Patio Area – After Flood:



East Patio Area – After Renovation:



Yard Area west of house – After Flood:



Yard Area west of house – After Renovation:



Area West of Tennis Court – After Flood:



Area

West of Tennis Court – After Renovation:



26 Road Bridge Opening – Prior to Cleaning in the Fall of 2011





26 Road Bridge Opening – After the Cleaning in the Fall of 2011



**Exhibit B – Copy of Email sent to Chris Speers and later copied to Bret Guillory**

Here are some pictures and comments regarding the results of the rain storm we experienced on the evening hours of approximately 4:30 thru 7:30 Sunday evening, July 15.

- The rain storm started around 5:00 Sunday evening, at least around the area of the airport to our home at 838 26 ½ Road, as we were driving around the area between 5:00 and 6:00.
- We arrived home at 6:00 and noted the rain had stopped at our home, and it appeared it had stopped in the general area around us, including the book cliffs to the north of us.
- We checked Leech Creek behind our home and noted the water had not risen even a foot in the creek channel at that time.
- Approximately 6:45 we looked out our window and noted that Leech Creek had risen to the top of its defined banks, which would be about 4 foot, and it was rising rapidly to beginning to overflow its normal defined banks.



McClelland Presentation to City July 20, 2012

This was the stream flowing TO the bridge, (so flowing from the east side of 26 ½ Road to the bridge)



McClelland Presentation to City July 20, 2012

We then went down to check on the water level at the bridge on 26 1/2 Road and took pictures of the level of the water relative to the bridge deck.



McClelland Presentation to City July 20, 2012

This is the west side of the bridge – so this is flowing out from under the bridge heading west.



McClelland Presentation to City July 20, 2012

We then went upstream, (east) of our home to the corner of our neighbor's lot where the north drainage merges with the east drainage and dumps into Leech Creek. By this time the water had crested and had subsided about a foot, as you can see on these photos - but you can also see the high water mark here.



We then drove upstream into Paradise hills to try to track where the water was coming from. We took these pictures as far upstream into Paradise Hills as we could. You can see where the pictures were taken.



Chris, as we discussed on the phone, my concern is that this was not that much of a storm and the water came very close to flooding my property again. Even with the bridge cleaned out, the water was very close to the top of the bridge, and had it hit the top and started backing up, that would likely have flooded my property – and could have easily flood my home again. Something has changed in the past year or so to cause this flooding. I have lived here over 20 years and I had water into my home 3 times, once back in the early 90s, where the water just barely reached my home, and then twice last year as you are aware of. The storm that flooded my home in the early 90s was an extended rain storm which lasted for several hours, and this was prior to any development north of my property or the west development of the airport. Now since that development has taken place, I have been flooded twice within a month last year – and those storms were not 100 year storms, and then this last storm, which I am convinced would have flooded my home again had the bridge not been cleaned out, and this storm yesterday was certainly not a 100 year storm.

Right now I am very concerned that if we get a significant storm again, my property and home will once again be flooded. I have spent well over \$100K putting my home back together after last years' floods and I desperately do not want to have to do that again, so I am very interested in working with the City officials to try to determine what has changed within the past couple of years up stream of me so we can address these changes and prevent another flood. I would like to get a meeting as soon as possible with the proper City staff to address this. This is a very high priority with me as we are coming into the rainy season and we have to expect we will get more significant storms than the one last evening.

I will appreciate anything you can do to help me with this. Thanks Chris!

Glenn