



## URBAN DRAINAGE AND FLOOD CONTROL DISTRICT BOARD OF DIRECTORS

February 1, 2011

### MINUTES

#### **Members Present:**

Susan Beckman	Commissioner, Arapahoe County
Doug Clark	Mayor, Littleton
Cindy Domenico	Commissioner, Boulder County
Joyce Downing	Mayor, City of Northglenn
Bob Dyer	Mayor Pro Tem, City of Arvada
Bob Hoffmaster	Engineer
Marcia Johnson	Council Member, City and County of Denver
Peggy Lehmann	Council Member, City and County of Denver
Bonnie McNulty	Mayor, Edgewater
Bob Murphy	Mayor, City of Lakewood
Alice Nichol	Commissioner, Adams County
Renie Peterson	Mayor Pro Tem, City of Aurora
Dave Sellards	Engineer
Walt Spader	Mayor Pro Tem, City and County of Broomfield
Ken Wilson	Deputy Mayor, City of Boulder

#### **Members Absent:**

Faye Griffin	Commissioner, Jefferson County
Erik Hansen	Mayor, City of Thornton
Paul Lopez	Council Member, City and County of Denver
Nancy McNally	Mayor, City of Westminster
Andrew Muckle	Mayor, Town of Superior
Jill Repella	Commissioner, Douglas County
Guillermo (Bill) Vidal	Deputy Mayor, City and County of Denver
Ron Weidmann	Mayor Pro Tem, City of Centennial

#### **UDFCD Staff Present:**

Paul Hindman	Executive Director
Ed Krisor	Legal Counsel
Bill DeGroot	Manager, Floodplain Management
Dave Bennetts	Manager, Design, Construction, and Maintenance
Ken MacKenzie	Manager, Master Planning
Kevin Stewart	Manager, Information Services and Flood Warning
Laura Kroeger	Assistant Manager, Design, Construction, and Maintenance
Richard Borchardt	Senior Project Engineer, Design, Construction, and Maintenance
Bryan Kohlenberg	Senior Project Engineer, Design, Construction, and Maintenance
David Mallory	Senior Project Engineer, Floodplain Management
Shea Thomas	Senior Project Engineer, Master Planning
Holly Piza	Senior Project Engineer, Master Planning
Terri Fead	Project Engineer, Floodplain Management
David Skuodas	Project Engineer, Design, Construction, and Maintenance
Jeff Fisher	Senior Construction Manager, Design, Construction, and Maintenance
Darren Bradshaw	Construction Manager, Design, Construction, and Maintenance
Julia Bailey	Information Services Engineer, Information Services and Flood Warning
Frank Dobbins	Director, Finance and Accounting
Sandra Gonzalez	Administrative Services Manager

**Others Present:**

Dean Johnson, CPA, Johnson, Holscher & Company, P.C.  
Lesley Thomas, City and County of Denver  
Sandra McDonald, Stormwater Council  
Mayor Clark, City of Littleton  
Mayor McNulty, City of Edgewater

**1. Call to Order – 1:00 p.m.**

Chairperson Pro Tem Beckman called the meeting to order at 1:00 p.m.

**Pledge of Allegiance**

Chairperson Pro Tem Beckman led those in attendance in the Pledge of Allegiance.

**2. Roll Call - Determination of Quorum**

Roll was called and a quorum was declared present.

**3. Nominating Committee Report**

**Election of Executive Committee**

Mayor Murphy stated that the Nominating Committee, which also included, Mayor McNally and Dave Sellards recommend the following slate of candidates for 2011 officers:

Chairperson:	Susan Beckman
Chairperson ProTem:	Alice Nichol
Treasurer:	Joyce Downing
Secretary:	Paul Lopez
Member-at-large	Dave Sellards

On a motion by Councilmember Lehmann and second by Mayor Pro Tem Dyer the motion was passed unanimously to accept the slate of officers as recommended by the Nominating Committee.

**4. Board of Directors Reappointment**

**a. Reappointment of B. H. (Bob) Hoffmaster to Board of Directors  
(Resolution No. 1, Series of 2011)**

Mr. Hindman noted that Mr. Hoffmaster has served on the Board as one of two professional engineers appointed by the Board. Mr. Hoffmaster indicated he is interested and willing to serve another two-year term. This resolution would reappoint Mr. Hoffmaster to a two-year term through January 31, 2013. A motion was made to place this on the consent agenda.

There being no further comments or questions, it was the consensus of the Board to place Resolution No. 1 on the Consent Agenda

**5. Introductions**

**a. Swearing in of New Board Members**

No new board members were sworn in at this meeting.

**b. Visitors/Guests**

No visitors or guests other than those listed above were present.

**c. Awards/Recognition**

Stormwater Council Chair, Sandra McDonald presented the District with an award for their continued support of the council. The award was accepted by Holly Piza and Ken MacKenzie on behalf of the District.

**6. Approval of December 16, 2010 Meeting**

The minutes were approved as submitted.

**7. Presentation of 2010 Audit – Discussion**

Mr. Hindman commended the auditors, Johnson, Holscher & Company, P.C., Certified Public Accountants, as well as District staff (Frank Dobbins and Darla Reeves) for completing the audit within one month after the end of the year. A copy of the Audit Report as well as the Management Letter was distributed to the Board members at the meeting.

Mr. Hindman introduced Mr. Johnson who provided a briefing on the audit report. Mr. Hindman noted that Mr. Johnson would be available to answer questions again at the March meeting when the audit report will be considered for adoption.

**8. Consent Agenda**

**a. Review of Cash Disbursements**

Cash Disbursement list dated December 2010 and January 2011 had been distributed to the Board for review.

There being no further comments or questions, it was the consensus of the Board to include approval of the Cash Disbursements on the Consent Agenda.

**b. Designation of Public Posting Place for Meeting Notices  
(Resolution No. 2, Series of 2011)**

It is required by the Colorado Open Meetings Law that the District annually designate the location for posting of meeting notices. The District designates the window area adjacent to the main entrance to the District offices at 2480 W. 26<sup>th</sup> Avenue, Suite 156B, Denver, Colorado as the public place for posting of meeting notices.

There being no further comments or questions, it was the consensus of the Board to place Resolution No. 2 on the Consent Agenda

**c. Authorization to Participate in Drainage and Flood Control Improvements on Ralston Creek from Dudley Court to Carr Street in the City of Arvada  
(Resolution No. 3, Series of 2011)**

The City of Arvada is currently working on several projects along Ralston Creek from Holland Street, upstream of Garrison Street, to Carr Street. Much of the work has been focused on enlarging the Garrison Street crossing and channelizing the creek downstream to Dudley Court, a reach currently occupied by the Apex Recreation District's indoor soccer facility. The effect of these improvements is to remove a large portion of Arvada Square commercial area from the floodplain.

The City of Arvada has now requested that the District participate in extending the flood control improvements downstream from Dudley Court to Carr Street within Hoskinson Park. This reach is severely eroded, very narrow, and is in need of repair. Proposed improvements include channel lowering and widening, maintenance trail relocation, the relocation of several utility crossings suspended from the Carr Street Bridge (to increase capacity), three right-of-way acquisitions, and modification of two grade control structures. The goal is to remove several properties from the floodplain just upstream of Carr Street and north of Brooks Drive.

This is a joint project with the City of Arvada and will be done in accordance with the "Major Drainageway Planning Study – Lower Ralston /Van Bibber and Leyden Creeks" dated February 1986. Easement and right-of-way acquisition will be included in the project costs. The District is administering the design with URS Corporation. The District and the City of Arvada desire to construct the improvements which will be managed by the City of Arvada as part of the large overall Ralston Creek project from Holland Street to Carr Street.

The District and the City of Arvada have identified \$700,000 in total project costs for the design, right-of-way acquisition, and construction with the District's participation being \$350,000 in 2011 funds. Construction is anticipated to begin in late 2011. This resolution authorizes \$350,000 of District funds from the Special Revenue Fund - Construction to be at least matched by the City of Arvada for the design, acquisition of right-of-way, and construction of the drainage elements of the project.

There being no further comments or questions, it was the consensus of the Board to place Resolution No. 3 on the Consent Agenda

**d. Additional Authorization to Participate in Drainage and Flood Control Improvements on Cherry Creek at Eco Park in the City of Centennial, Arapahoe County (Resolution No. 4, Series of 2011)**

This is a joint project with Southeast Metro Stormwater Authority (SEMSWA). Additional coordination and co-sponsors are the Arapahoe County Open Space and Cherry Creek Basin Water Quality Authority.

Muller Engineering is designing the project under a contract with the District. The drainage elements of the project include installation of drop structures and channel construction. Other multi-use project enhancements include improving an existing pond to provide water quality features, maintenance access that can be used as a regional trail, and planting corridors of wetlands and riparian areas to improve water quality and habitat.

Arapahoe County Open Space owns Eco Park and will be granting an easement to SEMSWA for drainage purposes. It is anticipated that the easement will be donated but other costs associated with acquisition are included in the project costs. The final design is in progress and the District and SEMSWA desire to fund final design and the construction of the improvements which will be managed by the District.

The District and SEMSWA have identified \$1,350,000 in total project costs with the District's participation being \$540,000. The previous authorizations, Resolution No. 56, Series of 2010 and Resolution No. 30, Series of 2009, totaled \$110,000 to start design.

This resolution authorizes an additional \$540,000 of District funds from the Special Revenue Fund - Construction to at least be matched by SEMSWA for the design, acquisition of right-of-way, and construction of the drainage elements of the project. SEMSWA has an additional \$1,050,000 in their 2011 Capital Project Budget and Arapahoe County Open Space and Cherry Creek Basin Water Quality Authority have budgeted \$800,000 and \$500,000, respectively for the project. These funds will be brought into this project later this year and will be used for construction of the project.

There being no further comments or questions, it was the consensus of the Board to place Resolution No. 4 on the Consent Agenda

**e. Additional Authorization to Participate in Drainage and Flood Control Improvements on East Toll Gate Creek in the City of Aurora, Arapahoe County (Resolution No. 5, Series of 2011)**

This is a joint project with the City of Aurora. The District and the City of Aurora are in the process of selecting an engineer to design the project. The drainage elements of the project include construction of a water quality pond and drop structure.

The City of Aurora already holds the necessary easements and right-of-way where the project will be carried out. The final design is scheduled for the spring and summer of

2011 and the District and the City of Aurora desire to construct the improvements in the fall of 2011 which will be managed by the District.

The District and the City of Aurora have identified \$1,575,000 in total project costs with the District's participation being \$555,000. The previous authorizations, Resolution No. 104, Series of 2001 and Resolution No.58, Series of 2007, totaled \$200,000 to fund design and partially fund construction.

This resolution authorizes an additional \$355,000 of District funds from the Special Revenue Fund - Construction to at least be matched by the City of Aurora for the construction of the drainage elements of the project.

There being no further comments or questions, it was the consensus of the Board to place Resolution No. 5 on the Consent Agenda

**f. Authorization to Develop Flood Warning System Improvements for Boulder Creek and Fourmile Creek (Resolution No. 6, Series of 2010)**

A situation exists concerning a potential increased flood threat to Boulder County and the City of Boulder resulting from the September 2010 Fourmile Canyon (FMC) wildfire that destroyed 169 homes in and near the mountain community of Gold Hill west of Boulder. Preliminary rainfall/runoff estimates, by District staff, USGS, and other professionals, suggest that this threat may be substantial. People involved currently believe that the risk to life and property in and immediately downstream of the burn area is extremely high along Fourmile Creek, a left bank tributary to Boulder Creek just west of the District boundary.

Based on flooding experience gained following the 1996 Buffalo Creek and 2002 Hayman wildfires in Jefferson and Douglas Counties, experts believe that the increased flood risk for the City of Boulder is also high but the actual magnitude of this threat has been a subject of debate. Earlier estimates by the U.S. Forest Service underestimated the increased runoff potential according to more recent opinions by USFS officials. City of Boulder officials based their initial opinions, in part, from the earlier USFS findings. Some city public works officials have stated they need additional studies before they make a determination if the increased risk to Boulder is significant.

Both Boulder County and the City of Boulder officials have requested District assistance in quantifying the increased flood threat and identifying rainfall thresholds capable of causing dangerous floods. District staff has suggested the following three tasks as initial steps to improve the existing flood warning system for Boulder Creek and Fourmile Creek; and sharing the results with the National Weather Service:

1. Update the existing real-time hydrologic forecast model for Boulder Creek to more accurately reflect the post-burn condition of the watershed and compare pre and post-burn runoff responses with respect to various rainfall depths and storm durations. This model uses rainfall inputs from the ALERT system.
2. Develop a new real-time hydrologic forecast model that uses inputs from radar-estimate rainfall and has the potential to increase warning lead times substantially and improve the accuracy and timing of runoff estimates.
3. Develop a web-accessible flood hazard information tool similar to previous projects completed for Douglas County and Lena Gulch in Jefferson County.

The FMC burn area also covers the extreme upper portion of Fourmile Canyon Creek that flows into north Boulder before reaching its confluence with Boulder Creek; and the extreme upper portion of Bummers Gulch, which outfalls into Boulder Creek upstream of the Fourmile Creek confluence. While the increased flood threat for these two watersheds is presumed less, mitigation efforts include these watersheds and District assistance may be requested for these areas in the near future. Additional monitoring

equipment is also being considered but no official requests for District assistance has yet been made for this.

Although this project was not specifically considered in the budget process, adequate funds are currently available from the District's 2011 General Fund for improving the flood warning system for Boulder Creek and Fourmile Creek. Colorado Water Conservation Board staff has stated that the District will be reimbursed for these expenditures. Resolution No. 6 will authorize District expenditures of up to \$100,000 from the General Fund-Special Projects budget, of which \$100,000 will be subsequently reimbursed by the Colorado Water Conservation Board.

There being no further comments or questions, it was the consensus of the Board to place Resolution No. 6 on the Consent Agenda.

**g. Additional Authorization for Funding Support of a Stormwater Bioretention Demonstration Project (Resolution No.7, Series of 2011)**

The board previously authorized funding support for a stormwater bioretention demonstration project in a residential neighborhood in Lakewood, which will be monitored over several years to evaluate long term performance and maintenance needs. The City of Lakewood would like to expand the research and this resolution requests \$50,000 of additional funds to expand this project.

There being no further comments or questions, it was the consensus of the Board to place Resolution No. 7 on the Consent Agenda.

**h. Adoption of a Good Neighbor Policy Regarding District Activities (Resolution No. 8, Series of 2011)**

The District staff works with local government partners to enhance projects to make them more valuable to their constituents on a daily basis. The Natural and Beneficial Functions (NBF) of drainageways and floodplains; including trail corridors, parks, recreation, wildlife habitat, flood storage, and groundwater recharge, can serve as amenities to adjacent neighborhoods and entire communities.

This resolution formalizes methods the District staff has employed for some time.

There being no further comments or questions, it was the consensus of the Board to place Resolution No. 7 on the Consent Agenda.

**9. Vote on Approval of the Consent Agenda**

**It was the consensus of the Board that Resolutions No. 1, 2, 3, 4, 5, 6, 7, and 8, Series of 2011, and Cash Disbursements for December 2010 and January 2011 be placed on the Consent Agenda. Mr. Hoffmaster moved to adopt the Consent Agenda. Upon a roll call vote the motion was passed unanimously.**

**10. Reports/Discussion**

**a. Executive Director's Report**

The Executive Director's Monthly Report to the Board was distributed to the Board Members. Mr. Hindman referred to his comments about Legislation and that he will be following up with that item later this week.

**b. Potential Litigation, Claims or Assessments**

Mr. Hindman noted that as part of the annual audit, District's legal counsel prepares a summary of pending or threatened litigation, claims and assessments. In addition at the request of the Board Mr. Krisor prepared an Executive Summary of the Northglenn Urban Renewal Authority lawsuit and its possible impact on the District. Both items were distributed to the Board members for their review.

Mr. Krisor commented that the Northglenn claim is the only pending lawsuit against the District. The maximum financial exposure of the District is \$18,400. Mr. Krisor referred to the Executive Summary he prepared and noted that no case law in Colorado addresses the questions the complaint raises regarding tax increment financing (TIF). He further stated that the Court will consider this a case of first impression and will be required to render its own opinion as to what the purpose of the legislation was and what the Legislature meant when it enacted the statute.

Mr. Krisor presented three options for the Board entities to consider

1. Rule 24 of the Colorado Rules of Civil Procedure permit permissive intervention into a lawsuit when an applicant's claim or defense and the main action have a question of law or fact in common. The granting of such intervention is at the discretion of the Court and, in this case, may not be granted because this issue, as far as Mr. Krisor is aware, is not pending in any other jurisdiction within the boundaries of UDFCD.
2. Due to the fact that this case is pending in a trial court in Colorado, no other trial court either within Adams County or any other county in the State of Colorado is required to follow the ruling that the Court will issue in the NURA litigation. However, if an appellate court in the State of Colorado were to rule on these issues, all trial courts in Colorado would be bound to follow the appellate court's decision.
3. If there is an appeal from the trial court's decision in this matter, a request can be filed with the appellate court requesting leave to file an Amicus Curiae brief in the appellate case. Thus, other's who will be affected by an appellate court's opinion can participate in the process of an appellate court reaching a decision which will be binding on all trial courts in Colorado.

Mr. Krisor noted that he was not communicating with Northglenn's attorney until he received direction from the Board. However, he recommends that the District agree with whatever the court decides as the problem lies with statutes. It was the consensus of the Board to monitor the case for now. Mr. Krisor would contact the attorney and advise him of the Board's direction at this point to abide by the court decision.

**11. Other Business**

There was no other business to discuss.

**12. Announcements**

Chairperson Beckman reminded the Board that the next scheduled meeting would be held on Thursday, March 17, 2011.

**13. Adjournment**

Chairperson Beckman adjourned the meeting at 2:10 p.m.